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Cook County Recorder of Deeds  
Date: 06/28/2006 03:12 PM Pg: 1 of 12

SUBORDINATION, NON-DISTURBANCE AND  
ATTORNMEN AGREEMENT

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This instrument prepared by and return to:

Howard R. Chen  
Attorney-at-Law  
Locke Reynolds LLP  
201 North Illinois Street  
Suite 1000  
P.O. Box 44961  
Indianapolis, Indiana 46244-0961

LANDAMERICA / LAWYERS TITLE  
COMMERCIAL SERVICES 11344  
10 S. LA SALLE STREET  
SUITE 2500  
CHICAGO, IL 60603

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## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT is made and entered into as of the 12<sup>TH</sup> day of MAY, 2006, by and between JPMORGAN CHASE BANK, N.A., a national banking association, and successors ("Tenant"), CCH SHOPS, LLC, an Illinois limited liability company ("Landlord"), and UNION FEDERAL BANK OF INDIANAPOLIS, a federal savings bank, its successors and assigns ("Mortgagee").

### RECITALS:

A. Mortgagee is the holder of a certain Mortgage dated MAY 12, 2006, to be recorded concurrently herewith (as amended from time to time "Mortgage") encumbering the Real Estate (hereinafter defined) and securing a principal indebtedness in an amount equal to Three Million Eight Hundred Thousand Dollars (\$3,800,000.00).

B. Tenant has entered into a Ground Lease (such Ground Lease hereinafter being referred to as "Lease Agreement" and the Lease Agreement, together with all amendments and modifications thereof, hereinafter being referred to as "Lease") dated March 10, 2006, pursuant to which Tenant leased certain ground ("Leased Premises") located at the intersection of the southwest corner of 167th and Crawford, in Country Club Hills, Illinois, legally described in Exhibit "A" attached hereto (such land herein being referred to as "Real Estate").

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

1. Prior to pursuing any remedy available to Tenant under the Lease, at law or in equity as a result of any failure of Landlord to perform or observe any covenant, condition, provision or obligation to be performed or observed by Landlord under the Lease (any such failure hereinafter referred to as a "Landlord's Default"), Tenant shall: (a) provide Mortgagee with a notice of Landlord's Default specifying the nature thereof, the Section of the Lease under which same arose and the remedy which Tenant will elect under the terms of the Lease or otherwise, and (b) if the Default by Landlord is of a nature which can be cured by Mortgagee, allow Mortgagee not less than thirty (30) days following receipt of such notice of Landlord's Default to cure the same; provided, however, that, if such Landlord's Default is not readily curable within such thirty (30) day period, Tenant shall give Mortgagee such additional time as Mortgagee may reasonably need to obtain possession and control of the Real Estate and to cure such Landlord's Default so long as Mortgagee is diligently pursuing a cure (such additional time not to exceed sixty (60) days). Tenant shall not pursue any remedy available to it as a result of any Landlord's Default unless Mortgagee fails to cure same within the time period specified above. For purposes of this Paragraph 1, a Landlord's Default shall not be deemed to have occurred until all grace and/or cure periods applicable thereto under the Lease have lapsed without Landlord having effectuated a cure thereof.

2. Subject to the terms of this Agreement, Tenant covenants with Mortgagee that the Lease shall be subject and subordinate to the lien and all other provisions of the Mortgage and to all modifications and extensions thereof, to the full extent of all principal, interest and all other

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amounts now or hereafter secured thereby and with the same force and effect as if the Mortgage had been executed and delivered prior to the execution and delivery of the Lease.

3. Tenant acknowledges that Landlord has collaterally assigned to Mortgagee the Lease, and the rents and other amounts due and payable under the Lease. In connection therewith, Tenant agrees that, upon receipt of a notice of a default by Landlord under such assignment and a demand by Mortgagee for direct payment to Mortgagee of the rents due under the Lease, Tenant will honor such demand and make all subsequent rent payments directly to Mortgagee. Landlord hereby authorizes and directs Tenant to deliver such payments to Lender upon receipt of such written notice and shall indemnify and hold Tenant harmless from any loss, cost, expense or claim incurred by Tenant in connection with its compliance with this provision.

4. Mortgagee agrees that so long as Tenant is not in default under the Lease beyond any period given Tenant to cure such default pursuant to the terms of the Lease:

(a) Tenant shall not be named or joined as a party in any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage (unless Tenant is a necessary party under applicable law); and

(b) The possession by Tenant of the Leased Premises and Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease or the term thereof (including extensions) be terminated or otherwise materially adversely affected by (i) any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage, or by any judicial sale or execution or other sale of the Leased Premises, or any deed given in lieu of foreclosure, or (ii) any default under the Mortgage.

5. If Mortgagee or any future holder of the Mortgage shall become the owner of the Real Estate by reason of foreclosure of the Mortgage or otherwise, or if the Real Estate shall be sold as a result of any action or proceeding to foreclose the Mortgage or transfer of ownership by deed given in lieu of foreclosure, and so long as Tenant is not in default under the Lease beyond any period given Tenant to cure such default pursuant to the terms of the Lease, Tenant's possession and occupancy of the Real Estate shall not be interfered with or disturbed by Mortgagee, and the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant and the new owner of the Real Estate as "landlord" upon all the same terms, covenants and provisions contained in the Lease (subject to the exclusions set forth in subparagraph (b) below), and in such event:

(a) Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if Tenant elects or has elected to exercise its options to extend the term), and Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "landlord" under the Lease without any additional documentation to effect such attornment (provided, however, if applicable law shall require additional documentation at the time Mortgagee exercises its remedies then Tenant shall execute such additional documents evidencing such attornment as may be required by applicable law);

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(b) Such new owner shall be bound to Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if Tenant elects or has elected to exercise its options to extend the term); provided, however, that such new owner shall not be:

(i) liable for any act or omission of any prior landlord (including Landlord) that is not then continuing under the Lease; provided, however, that Tenant's sole remedy against Mortgagee with respect to any act or omission of any prior landlord (including Landlord) that is then continuing under the Lease shall be to assert against Mortgagee any offsets of rent or other defenses which Tenant has against any landlord under the Lease (including Landlord) (subject to the limitation set forth in clause (ii) below);

(ii) subject to any offsets or defenses which Tenant has against any prior landlord (including Landlord) unless Tenant shall have provided Mortgagee with (A) notice of the Landlord's Default that gave rise to such offset or defense and (B) the opportunity to cure the same, all in accordance with the terms of Section 1 above;

(iii) bound by any base rent, percentage rent, additional rent or any other amounts payable under the Lease which Tenant might have paid in advance for more than the current month to any prior landlord (including Landlord);

(iv) liable to refund or otherwise account to Tenant for any security deposit not actually paid over to such new owner by Landlord;

(v) bound by any agreement terminating or amending or modifying the rent, term, commencement date or other material term of the Lease, or any voluntary surrender of the Real Estate made without Mortgagee's consent, except for any amendment, modification, termination, surrender or such actions that are expressly authorized by the Lease and are not merely permissible amendments or modifications under Section 16.4 of the Lease;

(vi) bound by, or liable for any breach of, any representation or warranty or indemnity agreement contained in the Lease or otherwise made by any prior landlord (including Landlord); or

(vii) personally liable for the failure to perform any such term, covenant or provision, such new owner's liability being limited in all cases to its interest in the Real Estate.

6. Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

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To Mortgagee: Union Federal Bank of Indianapolis  
45 North Pennsylvania Street, Suite 700  
Indianapolis, Indiana 46204  
Attn: Michael E. Lewis

With a copy to: Locke Reynolds LLP  
201 North Illinois Street, Suite 1000  
P.O. Box 44961  
Indianapolis, Indiana 46244-0961  
Attn: Howard R. Cohen

To Tenant: JPMorgan Chase Lease Administration  
1111 Polaris Parkway, Suite 1J  
Mail Code OH1-0241  
Columbus, Ohio 43240  
Attn: Lease Administration Manager

With a copy to: JPMorgan Chase Lease Law Department  
1111 Polaris Parkway, Suite 4P  
Mail Code OH1-0152  
Columbus, Ohio 43240  
Attn: Lease Administration Manager

JPMorgan Chase Real Estate  
JPMorgan Chase Bank  
270 Park Avenue  
10th Floor - Mail Code 1021  
New York, New York 10017  
Attn: Director of Real Estate

And a copy to: Lord, Bissell & Brook LLP  
111 South Wacker Drive, Suite 4400  
Chicago, Illinois 60606  
Attn: Anne R. Garr

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

7. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns and any nominees of Mortgagee, all of whom are entitled to rely upon the provisions hereof. This Agreement shall be governed by the laws of the State of Illinois.

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8. This Agreement may be executed in multiple counterparts and all of such counterparts together shall constitute one and the same Agreement.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

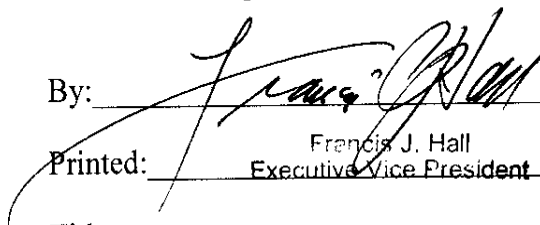
Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

**Tenant:**

JPMORGAN CHASE BANK, N.A., a national banking association

By: 

Printed: Francis J. Hall  
Executive Vice President

Title: \_\_\_\_\_

Property of Cook County Clerk's Office


**Landlord:**

CCH SHOPS, LLC, an Illinois limited liability company

By: \_\_\_\_\_  
Thomas G. English, Manager

**Mortgagee:**

UNION FEDERAL BANK OF INDIANAPOLIS, a federal savings bank

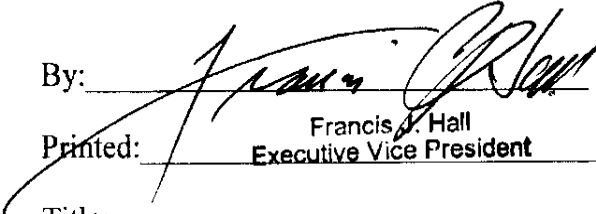
By:   
Michael E. Lewis, Senior Vice President

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IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

**Tenant:**

JPMORGAN CHASE BANK, N.A., a national banking association

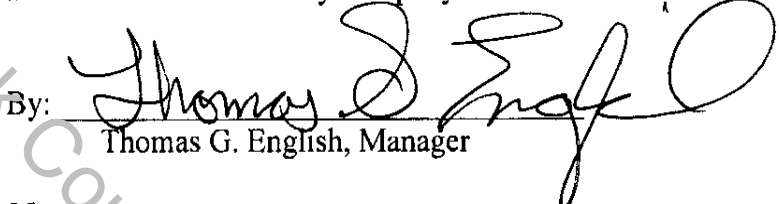
By: 

Printed: Francis J. Hall  
Executive Vice President

Title: \_\_\_\_\_

**Landlord:**

CCH SHOPS, LLC, an Illinois limited liability company

By:   
Thomas G. English, Manager

**Mortgagee:**

UNION FEDERAL BANK OF INDIANAPOLIS, a federal savings bank

By: \_\_\_\_\_  
Michael E. Lewis, Senior Vice President

Property of Cook County Clerk's Office

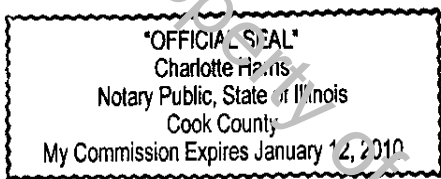


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STATE OF Illinois )  
 ) SS:  
COUNTY OF Cook )

Before me, a Notary Public in and for said County and State, personally appeared Francis J. Hall, the EVP of JPMorgan Chase Bank, N.A., a national banking association, and acknowledged the execution of the foregoing Subordination, Non-Disturbance and Attornment Agreement as the voluntary act and deed of such national banking association and further acknowledged that he was authorized to execute the same.

Witness my hand and Notarial Seal this 11 day of May, 2006.



Charlotte Harris  
Notary Public

Charlotte Harris  
Printed

My Commission Expires:

1/12/2010

My County of Residence:

Cook

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STATE OF INDIANA            )  
  ) SS.  
COUNTY OF MARION        )

Before me, a Notary Public in and for said County and State, personally appeared Thomas G. English, the Manager of CCH Shops, LLC, an Illinois limited liability company, and acknowledged the execution of the foregoing Subordination, Non-Disturbance and Attornment Agreement as the voluntary act and deed of such limited liability company, and further acknowledged that he was authorized to execute the same.

Witness my hand and Notarial Seal this 25<sup>th</sup> day of May, 2006.

Jennifer D. Morris  
Notary Public

Jennifer D. MORRIS  
Printed

My Commission Expires:  
11/9/2013

My County of Residence:  
Marion

Property of Cook County Clerk's Office

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STATE OF INDIANA        )  
  ) SS:  
COUNTY OF MARION     )

Before me, a Notary Public in and for said County and State, personally appeared Michael E. Lewis, a Senior Vice President of Union Federal Bank of Indianapolis, a federal savings bank, and acknowledged the execution of the foregoing Subordination, Non-Disturbance and Attornment Agreement as the voluntary act and deed of such federal savings bank and further acknowledged that he was authorized to execute the same.

Witness my hand and Notarial Seal this 25<sup>th</sup> day of May, 2006.



DEBORAH D. ACREE, Notary Public  
My Commission Expires: April 3, 2008  
County of Residence: Marion

*Deborah D. Acree*

Notary Public

Printed

My Commission Expires:

My County of Residence:

This instrument prepared by and after recording return to: Howard R. Cohen, Attorney-at-Law, Locke Reynolds LLP, 201 North Illinois Street, Suite 1600, P.O. Box 44961, Indianapolis, Indiana 46244-0961, 317-237-3800.

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**EXHIBIT "A"**  
TO  
SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Legal Description of Real Estate

**Property Address:** Vacant Land at 167th Street and Crawford Avenue, Country Club Hills, IL 60478.

**Tax Identification No.** 28-27-201-005x 011 (lot 14)

(Parcel 1) 28-27-201 012 (lot 15)

Lots 14 and 15 in Gatling Country Club Hills Resubdivision, being a Resubdivision of Gatling Country Club Hills Subdivision in the Northeast Quarter of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, South of the Indian Boundary line, according to the Plat thereof recorded June 9, 2004 as Document No. 0416145163, in Cook County, Illinois.

(Parcel 2)

Easement for ingress and egress, utilities, drainage, vehicular and pedestrian traffic for the benefit of Parcel 1 as granted and set forth in the Amended and Restated Development Declaration recorded June 23, 2004 as Document Number 0417518061 and as shown on the Plat of ReSubdivision recorded June 9, 2004 as Document Number 0416145163.