

# UNOFFICIAL COPY



Doc#: 0728439156 Fee: \$38.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 10/11/2007 03:37 PM Pg: 1 of 8

This instrument prepared by and  
when recorded, return to:

Barack Ferrazzano Kirschbaum &  
Nagelberg LLP  
200 W. Madison Street, Suite 3900  
Chicago, Illinois 60606  
Attn: T. Randall Graeb, Esq.

## NON-DISTURBANCE, ATTORNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT

THIS AGREEMENT is made and entered into as of this 20<sup>th</sup> day of September, 2007, by and among JPMORGAN CHASE BANK, N.A., a national banking association, whose address is 1 Chase Tower, Chicago, Illinois 60670, Attention: Central Region Real Estate, Department IL-0958 (the "Bank"), Chicago Wicker & Trading Company, an Illinois corporation, whose address is 5151 West 73<sup>rd</sup> Street, Bedford Park, Illinois 60638 (the "Lessee"), and Ridge Bedford Park I, LLC, a Delaware limited liability company, whose address is c/o Ridge Property Trust, 8430 West Bryn Mawr, Suite 400, Chicago, Illinois 60631 (the "Lessor").

### RECITALS

- A. Bank is the owner and holder of that certain Promissory Note Secured by Mortgage, dated as of September 20, 2005 in the principal sum of SIXTEEN MILLION THREE HUNDRED SEVENTY-SEVEN THOUSAND AND NO/100 DOLLARS (\$16,377,000.00), secured by that certain Mortgage, Assignment of Rents and Security Agreement (the "Mortgage") of even date therewith executed by Lessor, as Mortgagor, for the benefit of Bank, as Mortgagee and recorded September 21, 2005 in the records of Cook County, Illinois as Document No. 0526439065, which Mortgage constitutes a lien or encumbrance on that real property (the "Property") more particularly described on Schedule "A" attached hereto and by this reference incorporated herein.
- B. Lessee is the holder of a leasehold estate (the "Leased Premises") included in the Property pursuant to the terms of that certain Multi-Tenant Industrial Building Lease (the "Lease") dated September 20, 2007.
- C. Lessee and Bank desire to confirm their understanding with respect to the Lease and the Mortgage.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree and covenant as follows:

1. So long as Lessee is not in default (beyond any period given Lessee to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease to be performed by Lessee, Bank shall not disturb or interfere with Lessee's possession and occupancy of the Leased Premises during the term of the Lease or any extension thereof duly exercised by Lessee. Pursuant to the Mortgage, Bank was granted an assignment of rents and leases. Upon receipt of notice from Bank, Lessee agrees it will pay all rents due under the Lease directly to Bank. Lessor hereby relieves the Lessee from any liability to Lessor by the reason of the payment of the rents to Bank.
2. If the interests of Lessor shall be transferred to and owned by Bank by judicial foreclosure or any other manner, and Bank succeeds to the interest of Lessor under the Lease, Lessee shall be bound to Bank under all of the covenants, conditions and provisions of the Lease for the remaining term thereof, and any extension thereof duly exercised by Lessee, with the same force and effect as if Bank were the lessor under the Lease. Lessee hereby attorns to Bank as its lessor, and that attornment shall be self-operative and shall be effective immediately upon Bank's succeeding to the interest of Lessor under the Lease without the execution of any further instruments by any of the parties hereto.

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3. If the interests of Lessor shall be transferred to and owned by Bank by judicial foreclosure or any other manner, and Bank succeeds to the interest of Lessor under the Lease, Bank shall be bound to Lessee under all of the terms, covenants and conditions of the Lease except that Bank shall not be:

- (a) Liable for any act or omission of any prior lessor (including Lessor); provided, however, that Bank shall be liable for any liabilities accruing during the Bank's actual period of ownership of the Property as a result of Bank's acts or omissions as lessor under the Lease during such period;
- (b) Subject to any offsets or defenses that Lessee might have against any prior lessor (including Lessor);
- (c) Bound by any rent or additional rent or advance rent that Lessee might have paid for more than the current month to any prior lessor (including Lessor) and all such rent shall remain due and owing notwithstanding such advance payment;
- (d) Bound by any amendment or modification of the Lease made without its consent and written approval;
- (e) Bound to commence or complete any construction or to make any contribution toward construction or installation of any improvements upon the Leased Premises required under the Lease or any expansion or rehabilitation of existing improvements thereon, or for restoration of improvements following any casualty not required to be insured under the Lease or for the costs of any restoration in excess of any proceeds recovered under any insurance required to be carried under the Lease;
- (f) Bound by any restriction on competition beyond the Property; or
- (g) Personally liable under the Lease. Bank's liability under the Lease shall be limited to the ownership interest of Bank in the Leased Premises.

In addition, Bank shall not have any liability or responsibility under or pursuant to the terms of the Lease or this Agreement after it ceases to own an interest in or to the Property.

4. The Lease is now, and shall at all times continue to be, subject and subordinate in each and every respect to the Mortgage and to all extensions, modifications, renewals, replacements, substitutions and/or consolidations thereof. Nothing contained herein shall be deemed or construed as limiting or restricting the enforcement by Bank of any of the covenants, conditions, provisions or remedies of the Mortgage, whether or not consistent with the Lease.

5. Lessor certifies to Bank that a true and correct copy of the Lease has been delivered to Bank and Lessor and Lessee certify to Bank as follows: (a) the Lease is presently in full force and effect and unmodified or unchanged; (b) the term shall commence on November 1, 2007 and full rental will then accrue or is now accruing thereunder; (c) all conditions required under the Lease to have been satisfied as of the date hereof have been satisfied; (d) as of the date hereof, Lessee has not assigned or sublet the Leased Premises; (e) the amount of lease deposit paid under the terms of the Lease is \$29,673.00; (f) Bank shall have no liability or responsibility for the application or return of any security deposit of Lessee except to the extent such security deposit has been delivered to Bank; (g) no default exists under the Lease; (h) Lessee, as of the date hereof, has no charge, lien or claim of offset under the Lease or otherwise, against rents or other charges due or to become due thereunder; (i) Lessee has not received notice of any assignment, mortgage or pledge of Lessor's interest in the Lease or any rents or other amounts payable thereunder; (j) the Lease constitutes the entire rental agreement between the parties; (k) the only persons, firms or corporations in possession of the Leased Premises or having any right to the possession or use of the Leased Premises (other than the record owner or holders of recorded easements) are those holding under the Lease; and (l) Lessee has no right or interest in or under any contract, option or agreement involving the sale or transfer of the Leased Premises.

6. Lessee shall give written notice to Bank of any failure by Lessor to perform or observe any of the covenants, conditions or provisions of the Lease, and Bank shall have the right, but not the obligation, to cure such failure. In the event of any such failure by Lessor, Lessee shall not take any action with respect to such failure, including without limitation any action to terminate, rescind or avoid the Lease or to withhold any rent thereunder, for a period of thirty (30) days after notice thereof to Bank; provided, however, that if such failure cannot reasonably be remedied within that thirty (30) day period, Lessee shall not take any action with respect to such failure, including without limitation any action to terminate, rescind or avoid the Lease or to withhold any rent thereunder, so long as Bank shall commence to remedy the failure within the thirty (30) day period and thereafter shall diligently prosecute the remedy to completion.

All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail, by delivery service or by electronic transmission. Any notice directed to a party to this Agreement shall become effective upon

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the earliest of the following: (i) actual receipt by that party; (ii) delivery to the designated address of that party, addressed to that party; or (iii) if given by certified or registered United States mail, twenty-four (24) hours after deposit with the United States Postal Service, postage prepaid, addressed to that party at its designated address. The designated address of a party shall be the address of that party shown at the beginning of this Agreement or such other address as that party, from time to time, may specify by notice to the other parties.

7. The term "Bank" shall be deemed to include JPMORGAN CHASE BANK, N.A., a national banking association, and its successors and assigns, including anyone who shall have succeeded to Lessor's interest by or through judicial foreclosure or other proceedings brought pursuant to the Mortgage or deed in lieu of such foreclosure or proceedings.
8. Each covenant, condition and provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law but if any covenant, condition or provision of this Agreement shall be held to be void or invalid, the same shall not affect the remainder hereof which shall be effective as though the void or invalid covenant, condition or provision had not been contained herein.
9. This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by the parties hereto or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.
10. This Agreement shall be governed by and construed according to the laws of the State of Illinois, without giving effect to conflict of laws principles.
11. This Agreement may be executed in counterparts, all of which executed counterparts shall together constitute a single document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

[Signature/Notary Pages Follow]

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IN WITNESS WHEREOF, these presents are executed as of the date indicated above.

LESSEE:

CHICAGO WICKER & TRADING COMPANY, an Illinois corporation

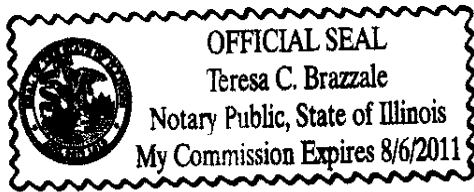
By: [Signature]  
Name: D. Erin Walsh  
Title: CEO and Secretary

STATE OF ILLINOIS )  
                                  )SS:  
COUNTY OF COOK

I, Teresa C. Brazzale, a Notary Public, in and for the County and State aforesaid, <sup>October</sup> **DO HEREBY** CERTIFY that the foregoing instrument was acknowledged before me on this 2<sup>nd</sup> day of ~~September~~, 2007, by D. Erin Walsh, as CEO & Secretary of Chicago Wicker & Trading Company, an Illinois corporation, on behalf of the corporation.

In Witness Whereof, I have hereunto set my hand and seal the day and year before written.

[Signature]  
Notary Public  
My Commission Expires: 8/6/2011



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LESSOR:

RIDGE BEDFORD PARK I, LLC, a Delaware limited liability company

By: Ridge 191, LLC, a Delaware limited liability company and its sole and managing member

By: Ridge HMAN Investors, LLC, a Delaware limited liability company and its sole managing member

By: Ridge Property Trust, a Maryland real estate investment trust and its sole and managing member

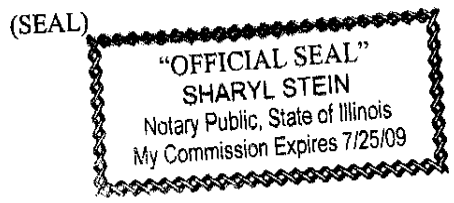
By:   
 Name: James G. Martell  
 Title: Chairman + CEO



STATE OF ILLINOIS            )  
   ) SS.  
 COUNTY OF COOK            )

I, Sharyl Stein, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James G. Martell, Chairman + CEO of Ridge Property Trust, as sole and managing member of Ridge HMAN Investors, LLC, as sole managing member of Ridge 191, LLC, as sole and managing member of Ridge Bedford Park I, LLC, the party to the foregoing instrument, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Chairman + CEO, appeared before me this day in person and acknowledged that he/she signed and delivered said instrument as his/her own free and voluntary act and as the free and voluntary act of said Chairman + CEO, on behalf of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 1<sup>st</sup> day of Oct, 2007  
Sharyl Stein  
 Notary Public  
 My Commission Expires: 7-25-09



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BANK:

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

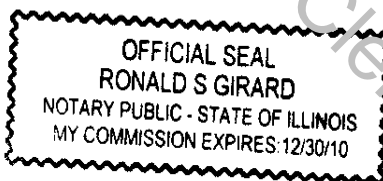
By *David C Weislozel*  
 Name: David C Weislozel  
 Title: Senior Vice President

STATE OF ILLINOIS )  
 )SS:  
 COUNTY OF COOK )

I, Ronald S. Girard, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY**, that the foregoing instrument was acknowledged before me on this 27<sup>th</sup> day of September, 2007, by David C Weislozel, as a Senior Vice President of JPMORGAN CHASE BANK, N.A., a national banking association on behalf of the association.

In Witness Whereof, I have hereunto set my hand and seal the day and year before written.

*Ronald S. Girard*  
 Notary Public  
 My Commission Expires: 12/30/10



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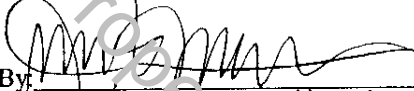
LESSOR:

RIDGE BEDFORD PARK I, LLC, a Delaware limited liability company

By: Ridge 191, LLC, a Delaware limited liability company and its sole and managing member

By: Ridge HMAN Investors, LLC, a Delaware limited liability company and its sole managing member

By: Ridge Property Trust, a Maryland real estate investment trust and its sole and managing member

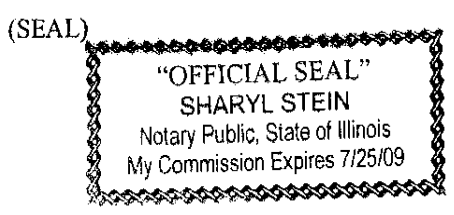
By:   
 Name: James G. Martell  
 Title: Chairman + CEO



STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF COOK )

I, Sharyl Stein, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James G. Martell, Chairman + CEO of Ridge Property Trust, as sole and managing member of Ridge HMAN Investors, LLC, as sole managing member of Ridge 191, LLC, as sole and managing member of Ridge Bedford Park I, LLC, the party to the foregoing instrument, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Chairman + CEO, appeared before me this day in person and acknowledged that he/she signed and delivered said instrument as his/her own free and voluntary act and as the free and voluntary act of said Chairman + CEO, on behalf of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 1<sup>st</sup> day of Oct, 2007  
Sharyl Stein  
 Notary Public  
 My Commission Expires: 7-25-09



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## SCHEDULE "A"

LOTS 1 AND 2 IN BEDFORD PARK COMMERCE CENTER I & II BEING PART OF THE NORTH HALF OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE FINAL PLAT OF SUBDIVISION RECORDED SEPTEMBER 21, 2005 AS DOCUMENT NUMBER 0526439064, IN COOK COUNTY, ILLINOIS.

For informational purposes only:

PIN Nos.:

19-28-102-005-0000  
19-28-200-022-0000

Commonly known as:

5151 West 73<sup>rd</sup> Street  
Bedford Park, Illinois

Property of Cook County Clerk's Office