

# UNOFFICIAL COPY



Doc#: 0934934081 Fee: \$52.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 12/15/2009 02:18 PM Pg: 1 of 9

**PREPARED BY AND  
WHEN RECORDED MAIL TO:**

Lawrence, Kamin, Saunders  
& Uhlerman, L.L.C.  
David L. Reich  
300 S. Wacker Drive  
Suite 500  
Chicago, Illinois 60606

**SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT**

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "Agreement"), made this 20<sup>th</sup> day of October, 2009, by, between and among CHICAGO HORSE & CARRIAGE, LTD., an Illinois corporation ("Tenant"), WESTERN SLOPE PARTNERSHIP, L.P. (TERRY F. GOODRICH) ("Landlord") and THE PRIVATE BANK AND TRUST COMPANY, a banking corporation organized and existing under the laws of the State of Illinois ("Lender").

**WHEREAS**, Landlord and Tenant have entered into that certain Lease dated July 13, 2009 (the "**Lease**") whereby Tenant agreed to lease from Landlord certain premises located in Cook County, Illinois and more fully described on Exhibit A hereto and incorporated herein (the "**Leased Premises**"); and

**WHEREAS**, Lender has agreed to grant a loan to Landlord (the "**Loan**") which Loan is to be secured by a mortgage on certain real property, including the Leased Premises (the "**Mortgage**"), by an Assignment of Landlord's interest in all leases, rents, profits and contracts for such property (the "**Assignment of Leases**") and other documents executed or to be executed in connection therewith; and

**WHEREAS**, Tenant has requested that Lender agree not to disturb Tenant's possessory rights in the Leased Premises if Lender should foreclose its Mortgage provided that Tenant is not in default under the Lease and further provided that Tenant attorns to Lender or the purchaser at any foreclosure sale or to any party who takes a deed in lieu of foreclosure; and

**WHEREAS**, Lender is willing so to agree on the terms and conditions hereafter provided.

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**NOW THEREFORE**, in consideration of the mutual promises herein contained, to induce Lender to make the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord, Tenant and Lender covenant and agree as follows:

1. The Lease and Tenant's leasehold estate created thereby, including all rights under the Lease, shall be and are completely and unconditionally subject and subordinate to the lien of the Mortgage and to all the terms, conditions and provisions thereof, to all advances made to or to be made thereunder, to any renewals, extensions, modifications or replacements thereof, and to any subsequent mortgage with which the Mortgage may be spread and/or consolidated.

2. Tenant agrees that it will attorn to and recognize any purchaser at a foreclosure sale under the Mortgage, any person or entity who acquires the real property of which the Lease Premises form a part by deed in lieu of foreclosure, and the successors and assigns of such purchaser, as its Landlord for the unexpired balance (and any extensions, if exercised) of the term of the Lease upon the same terms and conditions set forth in the Lease.

3. In the event that it should become necessary to foreclose the Mortgage, Lender will not disturb Tenant's possession under the Lease so long as Tenant is not in default under any material terms, covenants, or conditions of the Lease.

4. In the event that Lender or any other party shall succeed to the interest of Landlord under the Lease, or otherwise becomes entitled to and takes possession of the Property, Lender, or any subsequent owner, shall not be:

- A. Liable for any act or omission of any prior landlord (including Landlord);  
or
- B. Liable for the return of any security deposit unless such security deposit has physically been received by Lender; or
- C. Subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or
- D. Bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or
- E. Bound by any previous amendment, modification, financial settlement or termination of the Lease made without Lender's written consent; or
- F. Obligated to reimburse Tenant for any costs which arise from the failure to have the Premises completed and ready for occupancy within the time requirements if any by the Lease; or
- G. Obligated or liable with respect to the construction and completion of any improvements for tenant's use and occupancy.

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5. Tenant shall not pay an installment of rent or any part thereof more than thirty (30) days prior to the due date of such installment.
6. Tenant agrees not to enter into any amendment, modification, termination or financial settlement to the Lease without first obtaining written consent, which shall not unreasonably be withheld, thereto from Lender. Any amendment, modification, termination or financial settlement to the Lease entered into without Lender's written consent shall be null and void.
7. Tenant agrees to give Lender, by registered mail, a copy of any notice of default served upon the Landlord, provided that prior to such notice Tenant has been notified in writing (by way of Notice of Assignment of Rents and Leases or otherwise) of the address of such Lender. This Agreement shall constitute notice to Tenant of Lender's address as set forth below. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in the Lease, then the Lender, if it elects to cure such default, shall have an additional (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be reasonably necessary. If within such thirty (30) days, Lender has commenced and is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure), in which event the Lease shall not be terminated while such remedies are being so diligently pursued.
8. After notice is given to Tenant by Lender, pursuant to the Assignment, that the rentals under the Lease should be paid to Lender, Tenant shall pay to Lender, or in accordance with the directions of Lender, all rentals and other monies due and to become due to Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments to Lender and hereby releases and discharges Tenant of and from any liability to Landlord on account of any such payments.
9. This Agreement shall inure to the benefit of and shall be binding upon Tenant, Landlord and Lender, and their respective heirs, personal representatives, successors and assigns provided that the interest of Tenant under this Agreement may not be transferred or assigned without Lender's written consent, which shall not unreasonably be withheld. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or enforceability shall, at the option of Lender, not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement shall be governed by and construed according to the laws of the State of Indiana.
10. No modification, amendment, waiver or release of any provision of this Agreement or any right, obligation, claim or cause of action arising thereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.
11. Where under this document rights and obligations are created between Tenant and Lender, at or subsequent to foreclosure proceedings, "Lender" shall be deemed to include any

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purchaser at a foreclosure sale or trustee's sale and any purchaser acquiring title through mortgage foreclosure proceedings.

12. Tenant has not relied upon any representation (either oral or in writing) of Lender in executing the Lease or this Agreement and Tenant shall look only to Landlord to fulfill the terms, covenants and conditions of the Lease with respect to the actions or omissions of Landlord.

13. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which shall be construed together and shall constitute one instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

14. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage.

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be duly executed the day and year first above written.

**Landlord:**

**Address:**

2249 North Burling Street  
Chicago, Illinois 60614

WESTERN SLOPE PARTNERSHIP, L.P.,  
an Illinois limited partnership

By: Terry P. Goodrich  
TERRY GOODRICH, General Partner

**Tenant:**

**Address:**

401 North Armour Street  
Chicago, Illinois 60622

CHICAGO HORSE & CARRIAGE, LTD.,  
an Illinois corporation

By: Larry Ortega  
LARRY ORTEGA, President

**Lender:**

**Address:**

70 W. Madison Street, Suite 200  
Chicago, Illinois 60602

THE PRIVATE BANK AND TRUST  
COMPANY, a banking corporation  
organized and existing under the laws of the  
State of Illinois

By: \_\_\_\_\_  
Its: \_\_\_\_\_

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**Landlord:**

**Address:**

2249 North Burling Street  
Chicago, Illinois 60614

**WESTERN SLOPE PARTNERSHIP, L.P.,**  
an Illinois limited partnership

By: \_\_\_\_\_  
TERRY GOODRICH, General Partner

**Tenant:**

**Address:**

401 North Armour Street  
Chicago, Illinois 60622

**CHICAGO HORSE & CARRIAGE, LTD.,**  
an Illinois corporation


By: \_\_\_\_\_  
LARRY ORTEGA, President

**Lender:**

**Address:**

70 W. Madison Street, Suite 200  
Chicago, Illinois 60602

**THE PRIVATE BANK AND TRUST  
COMPANY, a banking corporation**  
organized and existing under the laws of the  
State of Illinois

By:   
Its: MARGARET DINEEN  
Director

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STATE OF ILLINOIS     )  
  ) ss  
COUNTY OF COOK     )

On the 21<sup>st</sup> day of October, 2009, before me, a notary public in and for the State and County aforesaid, personally appeared TERRY GOODRICH, the General Partner of WESTERN SLOPE PARTNERSHIP, L.P., an Illinois limited partnership, who is known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person acted and executed the instrument on behalf of the company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Bonnie Anderson  
Notary Public  
My Commission Expires: 06/15/13



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STATE OF ILLINOIS                    )  
   ) ss  
 COUNTY OF COOK                    )

On the 19 day of October, 2009, before me, a notary public in and for the State and County aforesaid, personally appeared LARRY ORTEGA, the President of CHICAGO HORSE & CARRIAGE, LTD., an Illinois corporation, who is known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person acted and executed the instrument on behalf of the company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Bonnie Anderson  
 Notary Public  
 My Commission Expires: 06/15/13



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## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

PARCEL 1:

LOTS 6, 7 AND 8 IN BLOCK 19 IN BICKERDIKE'S ADDITION TO CHICAGO IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH PART OF THE EAST/WEST 16.00 FEET VACATED ALLEY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 6 IN BLOCK 19 IN GEORGE BICKERDIKE'S ADDITION TO CHICAGO IN THE WEST ½ OF THE NORTHWEST ¼ AFORESAID; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE THEREOF 125.86 FEET TO THE NORTHWEST CORNER OF SAID LOT 6 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE NORTHERLY EXTENSION WITH SAID WEST LINE 12.00 FEET; THENCE SOUTH 89 DEGREES 52 MINUTES 32 SECONDS EAST 131.90 FEET TO THE NORTHERLY EXTENSION OF THE EAST LINE OF LOT 8 IN SAID SUBDIVISION; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 52.98 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 26 SECONDS EAST 55.70 FEET; THENCE NORTH 88 DEGREES 44 MINUTES 47 SECONDS WEST 5.30 FEET; THENCE SOUTH 01 DEGREES 13 MINUTES 27 SECONDS WEST 5.05 FEET; THENCE NORTH 88 DEGREES 46 MINUTES 33 SECONDS WEST 9.44 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS EAST 78.50 FEET TO THE NORTH LINE OF WEST KINZIE STREET; THENCE NORTH 89 DEGREES 52 MINUTES 20 SECONDS WEST ALONG SAID NORTH LINE 38.34 FEET TO THE SOUTHEAST CORNER OF LOT 8 AFORESAID; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE EAST LINE OF LOT 8 126.31 FEET TO THE NORTHEAST CORNER OF LOT 8; THENCE NORTH 89 DEGREES 44 MINUTES 28 SECONDS WEST ALONG THE NORTH LINE OF LOTS 6, 7 AND 8 IN SAID SUBDIVISION 131.90 FEET, TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Commonly known as: 401 North Armour Street, Chicago, Illinois 60622

Parcel Number: (as to Parcel 1 and part of Parcel 2): 17-08-136-026 Vol. 589  
Parcel Number: (as to remainder of Parcel 2): 17-08-136-034 Vol. 589