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Doc#: 1102419032 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/24/2011 09:47 AM Pg: 1 of 9

TYPE OF DOCUMENT:

Subordination, Non-Disturbance and Attornment Agreement

PREPARER INFORMATION:

Moran Foods, Inc.
Attn: Legal Department
100 Corporate Office Drive
Earth City MO 63045
314/592-9508

RETURN DOCUMENT TO:

First American Title Insurance Company
801 Nicollet Mall, Ste 1900
Minneapolis MN 55402
NCS-462339-02-Mpls (JF)
612/305-2000

Property of Cook County Clerk's Office

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

[Chicago, Illinois]

This Agreement is made by Speedy Acquisition Partners III LLC, an Illinois limited liability company ("Lessor"), Cole Taylor Bank, an Illinois banking corporation ("Mortgagee") and MORAN FOODS, INC., a Missouri corporation, d/b/a Save-A-Lot, Ltd. ("Lessee") as of the 15th day of November, 2010 (the "Execution Date").

RECITALS:

- A. Lessor is the owner of certain property (the "Shopping Center") situated in the City of Chicago, County of Cook, State of Illinois, and more particularly described in Exhibit A attached hereto;
- B. Lessor and Lessee are parties to a lease dated October 18, 2010, as amended from time to time thereafter (said lease as so amended hereinafter referred to as Lease) covering a portion of the Shopping Center ("Leased Premises"), which Leased Premises are more fully described in the Lease;
- C. The Shopping Center is encumbered by a certain Mortgage ("Mortgage") to secure certain obligations of Lessor to Mortgagee, which Mortgage is more fully described as follows: Mortgage executed by Lessor to Mortgagee dated December 13, 2007 and recorded in the office of Recorder of Deeds, County of Cook, State of Illinois as Document No. 0800442121.

AGREEMENT:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Mortgagee hereby gives its consent to the Lease. Mortgagee warrants and represents to Lessee that it is the owner of the Mortgage and that the Mortgage has not been assigned.
- 2. Lessee, for itself and its successors and assigns, does hereby agree that all right, title and interest which Lessee, its successors and assigns, may have in and to the Leased Premises or any part thereof, shall be, and the same hereby is made, subject and subordinate to the lien of the Mortgage, with the same force and effect as though the Mortgage had been executed, delivered and recorded prior to the date of the Lease, provided that Mortgagee hereby agrees that so long as Lessee is not in default beyond any applicable cure period in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease requiring performance on the part of Lessee, and except as otherwise provided herein, all condemnation awards and property insurance proceeds payable with respect to the Shopping Center shall be applied and paid in the manner set forth in the Lease.
- 3. So long as Lessee is not in default, beyond any applicable cure period, in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease requiring performance on the part of Lessee, (a) Mortgagee will not join Lessee as a party defendant in any action or proceeding for the purpose of foreclosing the Mortgage; (b) any sale or transfer of the Shopping Center or of Lessor's interest in the Lease,

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pursuant to foreclosure of the Mortgage or voluntary conveyance or other proceeding in lieu of foreclosure, will be subject and subordinate to Lessee's possession under the Lease; and (c) the Lease will continue in full force and effect according to its terms.

4. So long as Lessee is not in default, beyond any applicable cure period, in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease requiring performance on the part of Lessee, if the Shopping Center shall be transferred to and owned by Mortgagee, or any assignee of Mortgagee or purchaser at judicial sale or any transferee under an action in lieu thereof, by reason of foreclosure or other remedial proceedings brought by Mortgagee or any assignee of Mortgagee or by any other similar manner, Lessee's rights to possession of the Leased Premises under the Lease shall not be terminated thereby, rather Lessee shall attorn to and be bound to Mortgagee or any such assignee, purchaser or transferee under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining; and Mortgagee or any such assignee, purchaser or transferee shall be bound, as the Lessor, to Lessee under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining except that neither Mortgagee nor any such assignee, purchaser or transferee shall be:
 - 4.1. Bound by any rent or Additional Rent which Lessee may have paid for more than thirty (30) days in advance of its due date to any prior Lessor.
 - 4.2. Bound by any material amendment to the Lease entered into subsequent to the date of this Agreement which has not been consented to by Mortgagee which consent shall not be unreasonably withheld or delayed.
 - 4.3. Bound by any provision of the Lease restricting the use of properties owned by Mortgagee, other than the Shopping Center, for purposes which compete with Lessee.
 - 4.4. Liable for any act or omission of any prior lessor (including Lessor).
 - 4.5. Subject to any offsets or defenses which the Lessee has against any prior lessor (including Lessor) unless the Lessee shall have provided Mortgagee with (a) notice of Lessor'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 7 herein below.
 - 4.6. Liable to refund or otherwise account to Lessee for any security deposit not actually paid over to Mortgagee by Lessor.
 - 4.7. 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 lessor (including Lessor).
 - 4.8. Personally liable or obligated to perform any such term, covenant or provision, such Mortgagee's, assignee's, purchaser's or transferee's liability being limited in all cases to its interests in the Shopping Center.

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5. Subject to the provisions hereof, the Lease now is, and shall at all times continue to be, subject and subordinate in each and every respect to the lien of the Mortgage and to any and all amendments and renewals thereof.
6. This Agreement shall be binding upon and shall inure to the benefit of Lessor, Mortgagee and Lessee, and their respective heirs, personal representatives, transferees, successors and assigns. Except as provided in Section 8, no action on the part of any party to this Agreement shall be construed to be a waiver, release or relinquishment of any rights under this Agreement unless said waiver, release or relinquishment is expressly contained in an instrument executed by the party against whom the waiver, release or relinquishment is being enforced.
7. Lessee agrees that, during the term of the Mortgage, Lessee shall furnish to said Mortgagee the same notice or notices of default by Lessor that Lessee is required to furnish to Lessor under the Lease and Mortgagee shall have the same rights and period to cure such default as Lessor has under the Lease.
8. If Lessee requests in writing that Mortgagee indicate whether the Mortgage has been released, terminated or satisfied and Mortgagee fails to provide written notice to Lessee indicating whether the Mortgage has been released, terminated or satisfied within twenty (20) days following delivery of such request, then Lessee shall no longer be required to give Mortgagee notices under Section 7 and Mortgagee shall not have the right to cure defaults as provided in Section 7 and Mortgagee's consent to material amendments to the Lease, as provided in Section 4.2, shall not be required.
9. Lessor has by a separate Assignment of Leases and Rents (hereinafter referred to as the "Assignment of Leases") assigned its interest in the rents and payments due under the Lease to Mortgagee as security for repayment of its obligations to Mortgagee described in the Mortgage. If in the future there is a default by Lessor in the performance and observance of the terms of the Mortgage, Mortgagee may, at its option under the Assignment of Leases, require that all subsequent rents and other payments due Lessor under the Lease be paid directly to it. Upon notification to that effect to Lessee by Mortgagee, Lessor hereby authorizes and directs Lessee, and Lessee agrees (provided that such agreement shall not affect or limit any of Lessee's rights under the Lease, including but not limited to any rights of offset), to pay any subsequent payments due to Lessor under the terms of the Lease to Mortgagee. Lessor represents and warrants to Lessee that there are no other collateral assignments of the Lease or rents in effect, other than the Assignment of Leases to Mortgagee.
10. This Agreement is made and executed under and in all respects is to be governed by and construed in accordance with the laws of the State of Illinois.
11. Any notices required or given under this Agreement shall be in writing and shall be sent by U. S. Certified Mail, postage prepaid and shall be sent to the following addresses:

To Mortgagee: Cole Taylor Bank
225 West Washington, Suite 800
Chicago, Illinois 60606
Attn: Amy Hodson

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To Lessor: Speedy Acquisition Partners III LLC
c/o Musa P. Tadros, Manager
620 Butternut Trail
Frankfort, IL 60423

With copy to: James V. Inendino, Esq.
Loeb & Loeb LLP
321 North Clark, 23rd Floor
Chicago, IL 60654

To Lessee: MORAN FOODS, INC.
Attn: Asset Management Group
100 Corporate Office Drive
Earth City, MO 63045

With copy to: MORAN FOODS, INC.
Attn: Legal Department
100 Corporate Office Drive
Earth City, Missouri 63045

The addresses for such notices may be changed by written notice to the other party of at least thirty (30) days given as provided above. Notices given as provided above shall be deemed complete upon mailing.

12. This Agreement may be signed in counterparts and each counterpart shall be effective as an original when a counterpart has been signed by all parties.
13. This Agreement contains the entire agreement between the parties concerning the matters addressed herein and no representations, inducements, promises, understandings or agreements (whether express or implied and whether oral or written) made before the execution of this Agreement will change the terms of this Agreement. No covenants shall be implied into any of the terms or provisions of this Agreement. This Agreement may be changed or modified only by a writing that all parties have signed. This Agreement shall not be binding on any party until it is executed and delivered by each party hereto.

[Signature Page Follows]

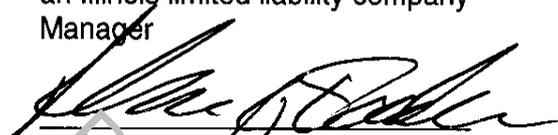
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The parties hereto have executed this Agreement as of the Execution date.

LESSOR:

SPEEDY ACQUISITION PARTNERS III LLC,
an Illinois limited liability company

By: SPEEDY ACQUISITION PARTNERS II LLC,
an Illinois limited liability company
Its: Manager

By: 
Name: Musa P. Tadros
Its: Manager

MORTGAGEE:

COLE TAYLOR BANK

By: 
Name: Amy A. Haddad
Its: Assistant Vice President

LESSEE:

MORAN FOODS, INC.

By: 
Name: G.F. Meyer
Its: Vice President

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ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On this 18th day of October, 2010, before me, a Notary Public in and for said County, personally appeared Musa P. Tadros, to me personally known, who being by me duly sworn, did say that he is the Manager of SPEEDY ACQUISITION PARTNERS II LLC, the Manager of SPEEDY ACQUISITION PARTNERS III LLC, an Illinois limited liability company, and acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



Pat A. Olmos
Notary Public

My Commission Expires:

STATE OF Illinois)
) SS.
COUNTY OF Cook)

On this 15th day of November, 2010, before me, a Notary Public in and for said County, personally appeared Amy R. Hodson, to me personally known, who being by me duly sworn, did say that ~~he~~/she is AVP of Cole Taylor Bank, and acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said Cole Taylor Bank by it voluntarily executed.

Deborah R. Latham
Notary Public

My Commission Expires: 9-2-2014

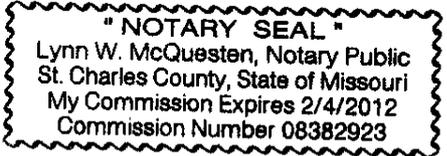


STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this 15th day of October, 2010, before me, a Notary Public in and for said County, personally appeared G.F. Meyer, to me personally known, who being by me duly sworn, did say that he/she is Vice President of Moran Foods, Inc., a Missouri corporation, and acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

Lynn W. McQuester
Notary Public

My Commission Expires:



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Drafted By:
 MORAN FOODS, INC.
 Attn: Legal Department
 100 Corporate Office Drive
 Earth City, Missouri 63045

EXHIBIT A

Legal Description to SNDA

PARCEL 1:

THAT PART OF CHICAGO CITY RAILWAY COMPANY'S BLOCK B, BEING A CONSOLIDATION OF SUNDRY TRACTS OF LAND IN THE SOUTH ½ OF THE SOUTHEAST ¼ OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 14, 1910 AS DOCUMENT 4554925, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID BLOCK 'B', BEING ALSO THE INTERSECTION OF THE WEST LINE OF SOUTH PERRY AVENUE, WITH THE NORTH LINE OF WEST 79TH STREET; THENCE WEST ALONG THE SOUTH LINE OF SAID BLOCK 'B', A DISTANCE OF 138.00 FEET TO A POINT FOR A POINT OF BEGINNING; THENCE CONTINUING WEST ALONG THE SOUTH LINE OF SAID BLOCK 'B', A DISTANCE OF 470.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE SOUTH LINE OF SAID BLOCK 'B', A DISTANCE OF 510.00 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 'B', A DISTANCE OF 416.00 FEET; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 135 DEGREES, 00 MINUTE, 00 SECOND, AS MEASURED FROM WEST TO SOUTHEAST WITH SAID LAST DESCRIBED LINE, A DISTANCE OF 48.08 FEET TO AN INTERSECTION WITH A LINE 476.00 FEET, AS MEASURED AT RIGHT ANGLES, NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 'B'; THENCE EAST ALONG SAID LAST DESCRIBED LINE PARALLEL, A DISTANCE OF 20.00 FEET; THENCE SOUTH AT RIGHT ANGLES TO SAID LAST DESCRIBED LINE, A DISTANCE OF 144.00 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 'B', A DISTANCE OF 21.00 FEET; THENCE SOUTH AT RIGHT ANGLES TO SAID LAST DESCRIBED LINE, A DISTANCE OF 175.00 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 'B', A DISTANCE OF 21.00 FEET; THENCE SOUTH AT RIGHT ANGLES TO SAID LAST DESCRIBED LINE, A DISTANCE OF 157.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1, AS SET FORTH IN EASEMENT RECORDED JANUARY 8, 1985 AS DOCUMENT 27398740, OVER THE FOLLOWING DESCRIBED LAND: COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 'B', BEING ALSO THE INTERSECTION OF THE WEST LINE OF SOUTH PERRY AVENUE, WITH THE NORTH LINE OF WEST 79TH STREET; THENCE WEST ALONG THE NORTH LINE OF WEST 79TH STREET, A DISTANCE OF 608.00 FEET TO THE POINT FOR A PLACE OF BEGINNING; THENCE NORTH AT RIGHT ANGLES TO THE NORTH LINE OF 79TH STREET, A DISTANCE OF 510.00 FEET; THENCE WEST PARALLEL TO THE NORTH LINE OF 79TH STREET, A DISTANCE OF 66.00 FEET THENCE SOUTH AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 510.00 FEET TO THE NORTH LINE OF 79TH STREET; THENCE EAST ALONG THE NORTH LINE OF 79TH STREET, A DISTANCE OF 66.00 FEET TO THE POINT OF BEGINNING, ALL IN THE SOUTH ½ OF THE SOUTHEAST ¼

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OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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