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NCS 700016 BK

Prepared by and after

~~Recording return to:~~

~~Barack Ferrazzano~~

~~Barack Ferrazzano~~

200 W. Madison Street

Suite 3900

Chicago, IL 60606

Attn: Howard J. Kirschbaum

Return to:
DRENDIA KRASKUSKI
FIRST AMERICAN TITLE
30 NORTH LA SALLE # 2709 CHICAGO IL 60602

Doc#: 1508210064 Fee: \$58.00

RHSP Fee: \$9.00 RPRF Fee: \$1.00

Karen A. Yarbrough

Cook County Recorder of Deeds

Date: 03/23/2015 03:50 PM Pg: 1 of 11

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made and entered into as of the 19th day of March, 2015, by and between WINTRUST BANK, an Illinois banking corporation ("Lender"), 100 SOUTH STATE STREET OWNER LLC, a Delaware limited liability company, or its designee, affiliate, successor or assign (hereinafter collectively called "Landlord"), and THE MEN'S WEARHOUSE, INC., a Texas corporation ("Tenant").

WITNESSETH:

WHEREAS, Landlord is the owner of certain real property located in Chicago, Cook County, Illinois and legally described on Exhibit A attached hereto (the "Property");

WHEREAS, by Lease Agreement dated August 31, 2005 by and between Landlord's predecessor in interest and Tenant (as may be amended, restated or modified, the "Lease"), Tenant leased from Landlord certain premises (the "Premises") on the Property commonly known as 112 S. State Street, Chicago, Illinois; and

WHEREAS, Lender, as a condition to making a loan to Landlord ("Loan") in the original principal amount of \$30,000,000.00, which is to be secured by a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing executed by Landlord to and in favor of Lender ("Mortgage"), recorded against the Property in Cook County, Illinois, including the Premises, and other property as security for the Loan and constituting a first lien upon and encumbering the Property, including the Premises, and other property, has required the execution of this Agreement; and

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WHEREAS, Lender, Landlord and Tenant have agreed to the following, with respect to their mutual rights and obligations pursuant to and under the Lease and the Mortgage.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the making of the Loan by Lender to Landlord and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. Tenant's interest in the Lease, and all rights of Tenant thereunder, including but not limited to any option in favor of Tenant to renew the Lease and/or any other rights of Tenant with respect to the Premises or the Property set forth in the Lease, shall be and hereby are declared to be subject and subordinate to the lien of the Mortgage in all respects. The term "Mortgage", as used herein, shall include the Mortgage and any and all amendments, supplements, modifications, renewals, extensions or replacements thereto, thereof or therefor.

2. Lender does hereby agree that the rights of Tenant under the Lease shall remain in full force and effect, and its possession of the Premises thereunder shall remain undisturbed by Lender during the term of the Lease, and during any renewal or extension thereof in accordance with its terms; provided Tenant shall have performed and shall continue to perform all of the covenants and conditions of the Lease to be performed by Tenant and shall not be in default thereunder beyond any applicable cure period.

3. After the receipt by Tenant of notice from Lender of completion of a foreclosure under the Mortgage or that Lender has received a conveyance of the Premises in lieu of foreclosure, Tenant will attorn to and recognize Lender, its successors and assigns, or any purchaser at the foreclosure sale, as its substitute Landlord under the Lease, and, having thus attorned, Tenant's possession shall not thereafter be disturbed by Lender during the term of the Lease, and during any renewal or extension thereof in accordance with its terms; providing, and as long as, Tenant shall continue to pay the rental provided under the Lease in the manner provided therein and otherwise to observe and perform the covenants, terms and conditions of the Lease to be observed and performed by Tenant thereunder in all respects. The parties shall

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execute and deliver, upon request, appropriate agreements of attornment and recognition, in form reasonably acceptable to Tenant and the other parties thereto, but this Agreement shall be deemed to be self-operative, and no such separate agreements shall be required to effectuate the foregoing attornment and recognition. Any such attornment and recognition of a substitute Landlord shall be upon all of the terms, covenants, conditions and agreements as are set forth in the Lease, except as amended hereby.

4. In the event that Lender or any other person, party or entity becomes the owner of the Premises ("New Owner") as a result of a foreclosure sale under the Mortgage or a conveyance in lieu of foreclosure, Tenant shall have no claim against the New Owner resulting from, and the New Owner shall not be liable for, any act, omission and/or breach of the Lease by any prior or subsequent landlord under the Lease, including but not limited to Landlord (other than conditions that are then continuing, and for which New Owner receives notice and cure periods as provided in the Lease); and the rights of the New Owner in and to the Premises and in, to and under the Lease shall not be subject to any right of set-off or defense which Tenant may have against any prior landlord under the Lease, including but not limited to Landlord, other than those offset rights expressly provided for in the Lease that are continuing at the time the New Owner becomes the owner of the Premises and that were taken in accordance with the Lease. In addition, the New Owner shall not be (a) bound by any rent or additional rent that Tenant might have paid for more than one (1) month in advance to any prior Landlord (including Landlord); provided, however, nothing herein is intended to limit Tenant's rights under the Lease to receive annual statements regarding certain items of Rent, to review, reconcile and audit same, and to receive refunds or credits for any overpayments made by Tenant. In the event Tenant is entitled to a cash refund, and provided sufficient term remains under the Lease, Mortgagee may require that such refunds be paid in the form of a credit against Rent; (b) intentionally deleted; (c) liable for the return of any security deposit to the extent not received by New Owner; or (d) obligated or liable with respect to the construction and completion of any improvements for Tenant's use and occupancy except to the extent required under the Lease with respect to the Landlord's

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maintenance, repair and restoration obligations. Upon any sale or other transfer by a New Owner of its interest in the Premises after acquiring title to the same, said New Owner shall thereupon automatically be released and discharged from all liability thereafter accruing under the Lease.

5. Intentionally omitted.

6. Tenant agrees not to terminate the Lease by reason of any default of Landlord under Section 12.3 of the Lease without prior written notice thereof to Lender and the lapse thereafter of such time as under the Lease was granted to Landlord in which to remedy the default, and the lapse of thirty (30) days after the expiration of such time as Landlord was permitted to cure such default; provided, however, that with respect to any default of Landlord under Section 12.3 the Lease which cannot be remedied by Lender within such time, if Lender commences to cure such default within such time and thereafter diligently proceeds with such efforts, Lender shall have such time as is reasonably necessary to complete curing such default.

7. After notice is given to Tenant, pursuant to the Mortgage, that the rentals under the Lease should be paid to Lender, Tenant shall pay to 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 such payments.

8. In the event that Lender shall acquire title to the Premises, Lender shall have no obligation, nor incur any liability, beyond Lender's then interest, if any, in the Property, which interest includes, without limitation, the rents profits and proceeds therefrom, and Tenant shall look exclusively to such interest of Lender, if any, in the Property for the payment and discharge or any obligations or liability imposed upon Lender hereunder, or under the Lease.

9. Each party hereto shall be entitled to specific performance of the covenants, agreements and rights contained in this Agreement. It is the express intent of all parties hereto that all remedies provided at law or in equity, including the right to specific performance as herein provided, shall be cumulative.

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10. This Agreement may not be amended or modified in any manner other than by an agreement in writing signed by all of the parties hereto.

11. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns, including any purchaser of the Premises at a foreclosure sale.

12. All notices, demands or documents which are required or permitted to be given or served hereunder shall be in writing, and shall be deemed given or served when sent by personal delivery or overnight courier, addressed as follows:

Lender: Wintrust Bank
190 S. LaSalle Street, 22nd Floor
Chicago, IL 60603
Attn: Mr. Nicholas M. Cannon

With a copy to: Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 W. Madison Street, Suite 3900
Chicago, Illinois 60605
Attn: Howard J. Kirschbaum, Esq.

Tenant: The Men's Wearhouse, Inc. (#4612)
6100 Stevenson Blvd., Bldg. B
Fremont, CA 94538
Attn: Sr. Vice President, Real Estate

With a copy to: The Men's Wearhouse, Inc. (#4612)
6100 Stevenson Blvd., Bldg. B
Fremont, CA 94538
Attn: Real Estate Law

Landlord: 100 South State Street Owner LLC
c/o Tishman Realty Corporation
100 Park Avenue
New York, NY 10017
Attn: Mr. Obaid Z. Khan

With a copy to: Taft
111 E. Wacker Drive, Suite 2800
Chicago, Illinois 60601
Attn: Anthony R. Licata, Esq.

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Each party hereto may change its above-stated address from time to time by serving written notice of the change upon the other parties hereto as above provided at least ten (10) days prior to the effective date of said change.

13. This Agreement and the Lease shall be governed by and construed and interpreted in accordance with the laws of the State of Illinois.

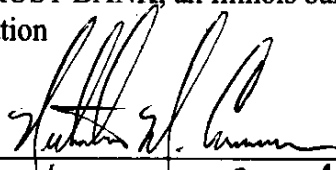
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IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first above written.

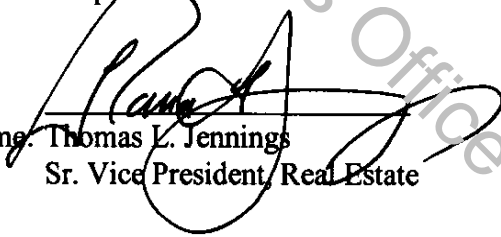
LENDER:
WINTRUST BANK, an Illinois banking corporation

By: 
Name: NICHOLAS M. CANESSA
Its: SVP

LANDLORD:
100 SOUTH STATE STREET OWNER LLC,
a Delaware limited liability company

By: 
Name: DAVID KITSON
Its: EUP

TENANT:
THE MEN'S WEARHOUSE, INC.,
a Texas corporation

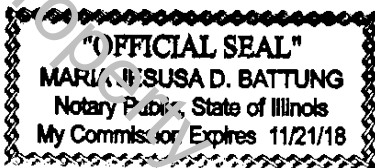
By: 
Name: Thomas L. Jennings
Its: Sr. Vice President, Real Estate

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STATE OF)
) ss.
COUNTY OF)

The foregoing was acknowledged before me this 16th day of March, 2015,
by Nicholas Cannon, the SVP of Wintrust Bank, an Illinois banking corporation, on
behalf of said banking corporation.



Maria Susa D. Battung
Notary Public

STATE OF)
New York) ss.
COUNTY OF)
New York

The foregoing was acknowledged before me this 10th day of March, 2015,
by Obaid Khan, the EVP of THR Hotel Investors, LLC, a Delaware limited
liability company; on behalf of said limited liability company

100 SOUTH STATE STREET OWNER LLC

Marie Sultana
Notary Public

MARIE SULTANA
Notary Public, State of New York
No. 018U4848269
Qualified in Queens County
Commission Expires December 31, 2017

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EXHIBIT A

Legal Description

PARCEL 1:

THAT PART OF LOTS 3 AND 4 IN BLOCK 141 IN SCHOOL SECTION ADDITION TO CHICAGO IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTH WESTERLY CORNER OF SOUTH STATE AND MONROE STREETS AND RUNNING THENCE SOUTH ALONG THE WESTERLY LINE OF STATE STREET 120 FEET; THENCE RUNNING WEST ON A LINE PARALLEL WITH THE SOUTHERLY LINE OF MONROE STREET 120 FEET TO THE EASTERLY LINE OF A PRIVATE ALLEY 10 FEET WIDE; THENCE RUNNING NORTH ALONG THE EASTERLY LINE OF SAID ALLEY 120 FEET TO THE SOUTHERLY LINE OF MONROE STREET AND THENCE RUNNING EAST ALONG THE SOUTHERLY LINE OF MONROE STREET 120 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS;

PARCEL 2:

EASEMENT OVER AND ACROSS AN ALLEY RUNNING NORTH AND SOUTH THROUGH LOT 3 IN BLOCK 141 IN THE SCHOOL SECTION ADDITION TO CHICAGO IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTH LINE OF MONROE STREET 120 FEET WEST OF THE NORTH EAST CORNER OF LOT 4 IN BLOCK 141. AFORESAID BEING THE SOUTH WEST CORNER OF MONROE AND STATE STREETS, RUNNING THENCE SOUTH ON A LINE PARALLEL WITH THE WEST LINE OF STATE STREET, 189 FEET TO THE NORTH LINE OF A PUBLIC ALLEY 18 FEET WIDE RUNNING EAST AND WEST THROUGH SAID BLOCK 141; THENCE WEST ALONG THE NORTH LINE OF SAID PUBLIC ALLEY 10 FEET; THENCE NORTH ON A LINE PARALLEL WITH THE WEST LINE OF STATE STREET, AFORESAID 189 FEET TO THE SOUTH LINE OF MONROE STREET; THENCE AND THEN EAST ALONG THE SOUTH LINE OF MONROE STREET, 10 FEET TO THE PLACE OF BEGINNING, AS CREATED BY BENJAMIN F. HADDUCK AND EVIDENCED BY VARIOUS DEEDS EXECUTED BY HIM AND BY INSTRUMENTS EXECUTED BY JAMES C. FARGO AND FREDERICK AYER DATED APRIL 12, 1898, AND RECORDED JUNE 17, 1898, AS DOCUMENT 2700134, IN COOK COUNTY, ILLINOIS.

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Street Addresses:

112 S. State Street, Chicago, IL
1 W. Monroe Street, Chicago, IL

Permanent Index Numbers:

17-16-213-004-0000
17-16-213-005-0000

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

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