



SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") executed on the date(s) indicated on each acknowledgment, but effective as of June 21, 2016, among BANK OF THE OZARKS ("Lender"), HINSHAW & CULBERTSON LLP, an Illinois limited liability partnership ("Tenant"), and 151 FRANKLIN LLC, a Delaware limited liability company ("Landlord").

STATEMENT OF BACKGROUND

A. Landlord and Tenant entered into that certain Office Lease Agreement, dated November 19, 2015 (as the same may be amended, supplemented or otherwise modified from time to time, the "Lease"), relating to the premises described therein (the "Premises") in a building (the "Building") to be constructed on the Property (as defined below). Lender has made or has committed to make a loan (the "Loan") to Landlord (or Landlord's successor in interest) secured by a deed of trust, mortgage or security deed (the "Mortgage") and an assignment of leases and rents (the "Assignment of Leases") from Landlord to Lender covering certain property located at 151 North Franklin Street, Chicago, Illinois, as more particularly described in the Mortgage (the "Property"), and including the Premises. Tenant has agreed that the Lease shall be subject and subordinate to the Mortgage, provided that, subject to the terms of this Agreement, Tenant is assured of continued occupancy of the Premises under the terms of the Lease.

B. The Loan is intended to provide the funds necessary to construct the Building, which includes the funds necessary to pay to Tenant the "Allowance" and the "Additional Allowance" (as such terms are defined in the Lease).

STATEMENT OF AGREEMENT

For and in consideration of the mutual covenants herein contained, the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, and notwithstanding anything in the Lease to the contrary, it is hereby agreed as follows:

1. Lender, Tenant and Landlord do hereby covenant and agree that the Lease with all rights, options (including options to acquire or lease all or any part of the Premises), liens and charges created thereby, is and shall continue to be subject and subordinate in all respects to the Mortgage and to any renewals, modifications, consolidations, replacements and extensions thereof and to all advancements made thereunder.

2. Lender does hereby covenant and agree with Tenant that, in the event Lender (or its designee) acquires title to the Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, so long as Tenant is not in default under the Lease beyond any applicable notice and cure periods and Tenant complies with and performs its obligations under the Lease, (a) the Lease shall continue in full force and effect as a direct Lease between Lender (or its designee) and Tenant, upon and subject to all of the terms, covenants and conditions of the Lease, for the balance of the term of the Lease (including any extensions thereof), and Lender will not disturb the possession of Tenant, and (b) the Premises shall be subject to the Lease and Lender shall

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recognize Tenant as the tenant of the Premises for the remainder of the term of the Lease (including any extensions thereof) in accordance with the provisions thereof; provided, however, that Lender shall not be (i) subject to any claims or defenses which Tenant might have against any prior landlord (including Landlord) unless Tenant has an express right (to any such claim or defense) under the terms of the Lease and unless further that the basis of such claim(s) or defense(s) is a default under the Lease which is continuing after Lender (or its designee) acquires title to the Premises and Lender had notice thereof and an opportunity to cure such default in accordance with Section 4 (the foregoing shall not limit Tenant's right to exercise against Lender any offset right with respect to the Allowance and/or Additional Allowance otherwise available to Tenant as expressly set forth in the Lease), (ii) liable for any act or omission of any prior landlord (including Landlord), (iii) bound by any rent or additional rent which Tenant might have paid for more than the current month or any security deposit or other prepaid charge paid to any prior landlord (including Landlord), or (iv) bound by any amendment or modification of the Lease made without its written consent. Nothing contained herein shall prevent Lender from naming Tenant in any foreclosure or other action or proceeding initiated by Lender pursuant to the Mortgage to the extent necessary under applicable law in order for Lender to avail itself of and complete the foreclosure or other remedy.

3. Tenant does hereby covenant and agree with Lender that, in the event Lender (or its designee) acquires title to the Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, then Tenant shall attorn to and recognize Lender (or its designee) as the landlord under the Lease for the remainder of the term thereof (including any extensions thereof), and Tenant shall perform and observe its obligations thereunder, subject only to the terms and conditions of the Lease. Tenant further covenants and agrees to execute and deliver upon request of Lender an appropriate agreement of attornment to Lender and any subsequent titleholder of the Premises.

4. Tenant acknowledges that Landlord will execute and deliver to Lender the Assignment of Leases as security for the Loan, and Tenant hereby expressly consents to such assignment. Tenant agrees to notify Lender of any default(s) by Landlord under the Lease and Lender shall have the same right to cure such default(s) as is provided to Landlord under the Lease.

5. Except as herein provided, Lender shall have no obligation or incur any liability with respect to the construction or completion of the improvements in which the Premises are located or for completion of the Premises or any improvements for Tenant's use and occupancy. Lender shall have no obligations nor incur any liability with respect to any warranties of any nature whatsoever, including, any warranties respecting use, compliance with zoning, hazardous wastes or environmental laws, Landlord's title, Landlord's authority, habitability, fitness for purpose or possession. In the event that Lender (or its designee) acquires title to the Premises, Lender shall have no obligation, nor incur any liability, beyond Lender's then equity interest, if any, in the Premises, and Tenant shall look exclusively to such equity interest of Lender, if any, in the Premises for the payment and discharge of any obligations or liability imposed upon Lender hereunder, under the Lease or under any new lease of the Premises.

6. Landlord represents and warrants that the budget (the "Construction Budget") for the construction of the Building includes, as a separate line item, the Allowance and the

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Additional Allowance, and those funds are earmarked for disbursement to Tenant pursuant to the terms of the Lease. Contemporaneously with Landlord's tender of possessing of the Premises to Tenant, Lender shall either (i) deposit the Allowance and the Additional Allowance with an "Escrow Agent" (as such term is defined in the Lease) or (ii) transfer the Allowance and the Additional Allowance to a separate account established with Lender, both to be held and disbursed pursuant to the terms of a "Escrow Agreement" (as such term is defined in the Lease) that is satisfactory to Lender and reasonably acceptable to Tenant. Lender shall cooperate with the implementation of the terms of the Escrow Agreement and, so long as Tenant is not in default of a term or provision of the Lease, Lender shall, to the extent required, approve disbursements of the Allowance and the Additional Allowance notwithstanding that Landlord is in default of the Mortgage or other documents which evidences or secures the Loan. Tenant's right to receive payment of the Allowance and the Additional Allowance shall not be interfered in by any action or lack of action on the Landlord's part, but shall only be governed by the terms and provisions of the Lease, the Escrow Agreement and this Agreement.

7. The Lease is in full force and effect and there are no amendments, supplements or modifications of any kind (except as referenced above) and together herewith constitutes the entire agreement between Tenant and Landlord with respect to the Premises. There are no other promises, agreements, understandings, or commitments of any kind between Landlord and Tenant with respect to the Premises or any other space at the Property.

8. If any portion or portions of this Agreement shall be held invalid or inoperative, then all of the remaining portions shall remain in full force and effect, and, so far as is reasonable and possible, effect shall be given to the intent manifested by the portion or portions held to be invalid or inoperative.

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

10. Lender shall not, either by virtue of the Mortgage, the Assignment of Leases or this Agreement, be or become a mortgagee in possession or be or become subject to any liability or obligation under the Lease or otherwise until Lender acquires title to the Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, and then such liability or obligation of Lender under the Lease shall extend only to those liabilities or obligations accruing subsequent to the date that Lender has acquired the interest of Landlord in the Premises as modified by the terms of this Agreement.

11. Any and all notices, elections, approvals, consents, demands, requests and responses thereto ("Communications") permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been properly given (i) if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested; (ii) by delivering same in person to the intended addressee; or (iii) by delivery to a reputable independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee. Communications (i) mailed shall be effective upon two (2) Business Days' following its deposit (properly addressed) with the United States Postal Service or any successor thereto; (ii) given by personal delivery shall be effective only if and when received by the addressee; (iii) sent by a reputable

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commercial delivery service shall be effective upon the transmitting parties' receipt of written verification of delivery from such reputable commercial delivery service at the proper address indicated hereinbelow; and (iv) given by other means shall be effective only if and when received at the designated address of the intended addressee. For purposes of Communications, the addresses of the parties shall be as set forth below:

Lender: **BANK OF THE OZARKS**
 8201 Preston Road
 Suite 700
 Dallas, Texas 75225
 Attn: Brannon Hamblen

with a copy to: Bank of the Ozarks
 6th and Commercial
 P.O. Box 196
 Ozark, Arkansas 72949
 Attn: Regina Barker

Landlord: 151 Franklin LLC
 c/o The John Buck Company
 225 W Washington St, Suite 2300
 Chicago, Illinois 60606
 Attn: John Silvestri

With a copy to: Greenberg Traurig, LLP
 77 West Wacker Drive, Suite 3100
 Chicago, Illinois 60601
 Attn: Michael T. Fishman, Esq.

Tenant: **HINSHAW & CULBERTSON LLP**
 222 N. LaSalle Street, Suite 300
 Chicago, IL 60601
 Attn: Paul Boken

with a copy to: **HINSHAW & CULBERTSON LLP**
 222 N. LaSalle Street, Suite 300
 Chicago, IL 60601
 Attn: Stephen H. Malato

Any of the foregoing parties shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth herein.

12. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-title and assigns. When used herein, the term "landlord" refers to Landlord and to any successor to the interest of Landlord under the Lease.

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13. This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages. This Agreement may be transmitted and/or signed by facsimile or e-mail transmission (e.g., "pdf" or "tif").

[SIGNATURE PAGE FOLLOWS]

Property of Cook County Clerk's Office

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EXECUTED to be effective as of the date first written above.

LENDER:

BANK OF THE OZARKS

By: *Dan Thomas*

Name: Dan Thomas
Title: President – Real Estate
Specialties Group

STATE OF TEXAS)

COUNTY OF Dallas) ss.

On the 14th day of June in the year 2016, before me, the undersigned, a notary public in and for said state, personally appeared Dan Thomas personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Anna M. Carrillo
Notary Public

My Commission Expires:

12-1-2018



UNOFFICIAL COPY**EXHIBIT A**Land Description**PARCEL 1:**

THE EAST 1/2 OF LOT 6 AND THE WEST 1/3 OF LOT 7 IN BLOCK 32 IN THE ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE WEST 1/2 OF LOT 6 AND THAT PART OF LOT 5 LYING NORTH OF THE SOUTH 130 FEET OF SAID LOT 6 IN BLOCK 32 IN THE ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

SUBLOTS 9 TO 13, BOTH INCLUSIVE, OF THE ASSESSOR'S DIVISION OF LOTS 4 AND 5 IN BLOCK 32 IN THE ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO;

ALL OF THE EAST WEST 10 FOOT VACATED ALLEY LYING SOUTH OF THE SOUTH LINE OF LOT 9, LYING NORTH OF THE NORTH LINE OF LOTS 10, 11 AND 12 LYING WEST OF THE WEST LINE OF LOT 13, AND LYING EAST OF A LINE DRAWN FROM THE SOUTHWEST CORNER OF SAID LOT 9 TO THE NORTHWEST CORNER OF SAID LOT 10, ALL IN ASSESSOR'S DIVISION OF LOTS 4 AND 5 IN BLOCK 32 IN ORIGINAL TOWN OF CHICAGO IN THE 1/2 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT AS CREATED BY EASEMENT AGREEMENT (LIGHT AND AIR) RECORDED JANUARY 28, 2016 AS DOCUMENT 1602834060 MADE BY AND BETWEEN URBAN GROWTH PROPERTY LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP AND UGP-200 WEST RANDOLPH LLC, A DELAWARE LIMITED LIABILITY COMPANY FOR THE BENEFIT OF PARCELS 1, 2 AND 3 AN EASEMENT FOR LIGHT AND AIR AND UNOBSTRUCTED VIEW DURING THE EASEMENT TERMS OVER AND UPON THE AIRSPACE LOCATED ABOVE THE RESTRICTED AREA AS SHOWN ON EXHIBIT "C" ATTACHED THERETO.

Address: 151 North Franklin Street, Chicago, Illinois

PIN(s): 17-09-431-001-0000; 17-09-431-002-0000; 17-09-431-003-0000; 17-09-431-008-0000;
17-09-431-009-0000; 17-09-431-010-0000; 17-09-431-011-0000; 17-09-431-014-0000

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