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This document prepared by
and after Recording return to:

Ginsberg Jacobs LLC
300 South Wacker Drive
Suite 2750
Chicago, Illinois 60606
Attn: Barrett J. Schulz


1635645059

Doc# 1635645059 Fee \$58.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00
KAREN A. YARBROUGH
COOK COUNTY RECORDER OF DEEDS
DATE: 12/21/2016 12:01 PM PG: 1 OF 11

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "**Agreement**") dated as of 12/20, 2016, is made by and between TCF NATIONAL BANK, a nation banking association, with offices at 71 S. Wacker Dr., Suite 2750, Chicago, Illinois 60606 ("**Lender**"), GENDRELL PARTNERS 76TH AND STONY ISLAND, LLC, an Illinois limited company, with offices at 3201 Old Glenview Rd., Suite 300, Wilmette, Illinois 60091 ("**Borrower**") and K&G MEN'S COMPANY INC., a Delaware corporation, with its principal place of business at 6100 Stevenson Blvd., Bldg. B, Fremont, California 94538 ("**Tenant**").

RECITALS:

A. Lender has made or is about to make a loan (together with all advances and increases, the "**Loan**") to) Borrower.

B. Borrower, as landlord, and Tenant have entered into a Lease dated March 28, 2006, as from time to time be extended, amended, restated or supplemented (the "**Lease**") which leased to Tenant approximately 20,000 square feet of space (the "**Leased Space**") located in the Property (defined below).

C. The Loan is or will be secured by the Mortgage, Assignment of Leases and Rents, Fixture Filing Statement and Security Agreement recorded or to be recorded in the official records of the County of Cook, State or Commonwealth of Illinois (together with all advances, increases, amendments or consolidations, the "**Mortgage**") and the Assignment of Leases and

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Rents recorded or to be recorded in such official records (together with all amendments or consolidations, the "Assignment"), assigning to Lender the Lease and all rent, additional rent and other sums payable by Tenant under the Lease (the "Rent").

D. The Mortgage encumbers the real property, improvements and fixtures located at 7538 South Stony Island Avenue, in the City of Chicago, County of Cook, State or Commonwealth of Illinois, commonly known as Stony Island, and described on Exhibit "A" (the "Property").

IN CONSIDERATION of the mutual agreements contained in this Agreement, Lender, Borrower and Tenant agree as follows:

1. The Lease and all of Tenant's rights under the Lease are and will remain subordinate to the lien of the Mortgage.

2. This Agreement constitutes notice to Tenant of the Mortgage and the Assignment and, provided Tenant receives a copy of this Agreement executed by Borrower, upon receipt of notice from Lender to do so, Tenant will pay the Rent as and when due under the Lease to Lender and the payments will be credited against the Rent due under the Lease. Borrower hereby agrees that (i) payment to or as directed by Lender shall be deemed payment to Borrower under the Lease and Tenant shall not be liable for any misapplication of funds; (ii) no notice from Borrower shall be effective to revoke Tenant's right to pay rent as directed by Lender or cancel Lender's right to receive or direct payment unless such notice of revocation shall be consented to in writing by Lender and (iii) Tenant shall be entitled to honor any demand or direction for payment from Lender or any person or entity purporting to act on behalf of Lender without regard to or inquiring into whether a default by Borrower under the loan has actually occurred or the actual authority of the party making such demand or direction.

3. Tenant does not have and will not acquire any right or option to purchase any portion or interest in the Property.

4. Tenant and Lender agree that if Lender exercises its remedies under the Mortgage or the Assignment:

(a) Lender will not name Tenant as a party to any judicial or non-judicial foreclosure or other proceeding to enforce the Mortgage unless joinder is required under applicable law but in such case Lender will not seek affirmative relief against Tenant, the Lease will not be terminated and Tenant's possession of the Leased Space will not be disturbed;

(b) If Lender or any other entity (a "Successor Landlord") acquires the Property through foreclosure, by other proceeding to enforce the Mortgage or by deed-in-lieu of foreclosure (a "Foreclosure"), Tenant's possession of the Leased Space will not be disturbed and the Lease will continue in full force and effect between Successor Landlord and Tenant, so long as Tenant is not in material default under the Lease beyond any applicable notice and cure periods; and

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(c) If, notwithstanding the foregoing, the Lease is terminated as a result of a Foreclosure, a lease between Successor Landlord and Tenant will be deemed created, with no further instrument required, on the same terms as the Lease except that the term of the replacement lease will be the then unexpired term of the Lease. Successor Landlord and Tenant will execute a replacement lease at the request of either.

5. Upon Foreclosure, Tenant will recognize and attorn to Successor Landlord as the landlord under the Lease for the balance of the term. Tenant's attornment will be self-operative with no further instrument required to effectuate the attornment except that at Successor Landlord's request, Tenant will execute instruments reasonably satisfactory to Successor Landlord and Tenant confirming the attornment.

6. Successor Landlord shall not be:

(a) liable for any act or omission of Borrower or any prior landlord under the Lease, provided, however, that nothing herein shall relieve Successor Landlord from liability for conditions which constitute continuing defaults under the Lease;

(b) subject to any offsets or defenses which Tenant might have against Borrower or any prior landlord except for such offsets as may arise as a result of any rights afforded to Tenant under the Lease;

(c) bound by any rent or additional rent which Tenant might have paid for more than the current month to Borrower or any prior landlord; provided, however, nothing herein is intended to limit any rights of Tenant under the Lease to receive reconciliations related to payments of additional rent to the Landlord, review or audit the books and records related thereto, and receive refunds or credits for any overpayments; and

(d) liable for any security deposit Tenant might have paid to Borrower or any prior landlord, except to the extent Lender has actually received said security deposit.

7. Lender will have the right, but not the obligation, to cure any default by Borrower, as landlord, under the Lease. Tenant will notify Lender of any default that would entitle Tenant to terminate the Lease or abate the Rent and Lender shall have the longer of (i) the same cure period Borrower would have pursuant to the Lease to cure such default, or (ii) ten (10) business days.

8. All notices, requests or consents required or permitted to be given under this Agreement must be in writing and sent by certified mail, return receipt requested or by nationally recognized overnight delivery service providing evidence of the date of delivery, with all charges prepaid, addressed to the appropriate party at the address set forth above.

9. Any claim by Tenant against Successor Landlord under the Lease or this Agreement will be satisfied solely out of Successor Landlord's interest in the Property, which interest includes the rents, profits and proceeds therefrom, and Tenant will not seek recovery against or out of any other assets of Successor Landlord. Successor Landlord will have no

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liability or responsibility for any obligations under the Lease that arise subsequent to any transfer of the Property by Successor Landlord.

10. This Agreement is governed by and will be construed in accordance with the laws of the state or commonwealth in which the Property is located.

11. Lender and Tenant waive trial by jury in any proceeding brought by, or counterclaim asserted by, Lender or Tenant relating to this Agreement.

12. If there is a conflict between the terms of the Lease and this Agreement, the terms of this Agreement will prevail as between Successor Landlord and Tenant.

13. This Agreement binds and inures to the benefit of Lender, Borrower and Tenant and their respective successors, assigns, heirs, administrators, executors, agents and representatives.

14. This Agreement contains the entire agreement between Lender and Tenant with respect to the subject matter of this Agreement, may be executed in counterparts that together constitute a single document and may be amended only by a writing signed by Lender and Tenant.


[the balance of this page is intentionally blank—signature pages follow]

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IN WITNESS WHEREOF, Lender, Tenant and Borrower have executed and delivered this Agreement as of the date first written above.

LENDER:

TCF NATIONAL BANK, a national banking association

By: 

Name: Richard G. Baer, Jr.

Title: Vice President

TENANT:

K&G MEN'S COMPANY, INC.,
a Delaware corporation

By: _____

Name: Rajesh Chhablani

Title: SVP, Real Estate, Store Design & Construction

BORROWER:

GENDELL PARTNERS / PTH AND STONY ISLAND, LLC, an Illinois limited liability company

By: _____

Name: Scott H. Gendell

Title: Manager

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, Lender, Tenant and Borrower have executed and delivered this Agreement as of the date first written above.

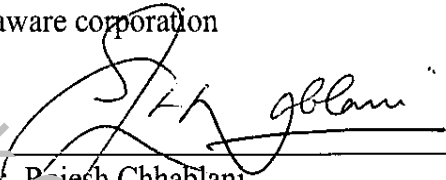
LENDER:

TCF NATIONAL BANK, a national banking association

By: _____
Name: Richard G. Baer, Jr.
Title: Vice President

TENANT:

K&G MEN'S WEARHOUSE COMPANY INC.,
a Delaware corporation

By:  _____
Name: Rajesh Chhablani
Title: SVP Real Estate, Store Design & Construction

BORROWER:

GENDELL PARTNERS 16TH AND STONY ISLAND,
LLC, an Illinois limited liability company

By: _____
Name: Scott H. Gendell
Title: Manager

Property of Cook County Clerk's Office

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LENDER:

TCF NATIONAL BANK, a national banking association

By: _____

Name: Richard G. Baer, Jr.

Title: Vice President

TENANT:

K&G MEN'S COMPANY, INC.,
a Delaware corporation

By: _____

Name: Rajesh Chhablani

Title: SVP, Real Estate, Store Design & Construction

BORROWER:

GENDELL PARTNERS 76TH AND STONY ISLAND, LLC, an Illinois limited liability company

By:  _____

Name: Scott H. Gendell

Title: Manager

Property of Cook County Clerk's Office

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LENDER ACKNOWLEDGEMENT

STATE OF Illinois)
) SS.
COUNTY OF Cook)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **Richard G. Baer, Jr**, the Vice President of **TCF NATIONAL BANK**, a national banking association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 19th day of December, 2016.



[Handwritten Signature]

Notary Public

My Commission Expires:

2/1/20

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TENANT ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

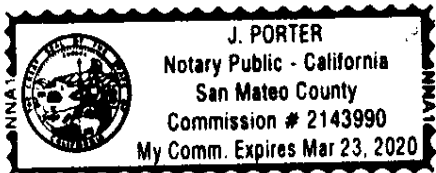
COUNTY OF Alameda

On this 15th day of December, 2016, before me, J. Porter, Notary Public personally appeared Paresh Chhabani, who proved to me, on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

J. Porter
Notary Public



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BORROWER ACKNOWLEDGEMENT

STATE OF Illinois)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **Scott H. Gendell**, as the manager of **GENDELL PARTNERS 76TH AND STONY ISLAND, LLC**, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16 day of Dec, 2016.

Maria Psyzkios
Notary Public

My Commission Expires:

JAN 25, 2020



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EXHIBIT A LEGAL DESCRIPTION

PARCEL 1:

LOTS 1 TO 37, BOTH INCLUSIVE, IN BLOCK 2 IN TROWBRIDGE AND SWAN'S SUBDIVISION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

ALL THE 14 FOOT WIDE VACATED ALLEY LYING WEST OF AND ADJOINING LOTS 1 TO 10, BOTH INCLUSIVE, IN BLOCK 2 IN TROWBRIDGE AND SWAN'S SUBDIVISION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

ALL THE 14 FOOT WIDE VACATED ALLEY LYING NORTH OF AND ADJOINING LOTS 24 TO 37, BOTH INCLUSIVE, IN BLOCK 2 IN TROWBRIDGE AND SWAN'S SUBDIVISION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

ALL THE 14 FOOT WIDE VACATED ALLEY LYING WEST OF AND ADJOINING LOT 18 IN BLOCK 2 IN TROWBRIDGE AND SWAN'S SUBDIVISION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS:

20-26-407-001-0000
20-26-407-002-0000
20-26-407-003-0000
20-26-407-004-0000
20-26-407-005-0000
20-26-407-006-0000

ADDRESS: Northwest Corner of 76th Street & Stony Island Avenue, Chicago, Illinois