

# UNOFFICIAL COPY

Doc# 1811349020 Fee: \$58.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 04/23/2018 12:05 PM Pg: 1 of 6

*This Document Prepared By And  
When Recorded Return To:*

Chris Cirillo  
BROTSCUL POTTS LLC  
30 N. LaSalle  
Suite 1402  
Chicago, Illinois 60602  
(312) 551-9003

40037109 sls

GIT Property of Cook County, Illinois

## SUBORDINATION (Pierre's)

**THIS SUBORDINATION AGREEMENT** (this "**Agreement**"), is made as of April 12, 2018, by **PIERRE'S BANQUETS, INC.**, an Illinois corporation ("**Tenant**"), in favor of **CHANTICO ASHEVILLE, LP**, a Delaware limited partnership ("**Lender**").

### WITNESSETH

**WHEREAS**, 3229 S. HARLEM, INC., an Illinois corporation ("**Borrower**"), has executed and delivered to Lender that certain Mortgage, to be recorded with the Cook County Recorder of Deeds (such mortgage as the same may be amended, modified or restated from time to time being hereinafter referred to as the "**Mortgage**") encumbering, inter alia, that certain property legally described on **Exhibit A**, attached hereto and incorporated herein (the "**Property**") to secure the repayment of that certain indebtedness (all such indebtedness, collectively, the "**Loan**") advanced by Lender to, inter alia, Borrower pursuant to that certain Note, by, inter alia, Borrower in favor of Lender (collectively, the "**Note**," together with the Mortgage and all other documents which evidence and/or secure the Loan, collectively, the "**Loan Documents**"); and

**WHEREAS**, Borrower is the "**Landlord**" under that certain lease agreement dated on or about, April 12, 2018, (such Lease, together with all amendments and modifications thereto, being hereinafter referred to as the "**Lease**") under which Tenant leases a portion of the Property subject to the terms and provisions of the Lease; and

**WHEREAS**, prior to providing the Loan, Lender has required the execution of this Agreement and Lender intends to rely on the provisions hereof.

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual covenants and agreements herein contained, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby covenant and agree as follows:

1. Tenant agrees that the Lease is and shall be subject and subordinate to the Loan Documents (which shall mean all documents which evidence and/or secure the Loan) and to all present or future advances under the obligations secured thereby and all renewals, amendments, modifications, consolidations, replacements and extensions of the secured obligations and the Loan Documents, to the full extent of all amounts secured by the Loan Documents from time to time. Said subordination is to have the same force and effect as if the Loan Documents and such

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renewals, modifications, consolidations, replacements and extensions thereof had been executed, acknowledged, delivered and recorded prior to the Lease, any amendments or modifications thereof and any notice thereof.

2. Tenant agrees that, in the event Lender succeeds to the interest of Landlord under the Lease, Lender shall not be:

- a. liable for any act or omission of any prior Landlord (including, without limitation, the then defaulting Landlord);
- b. subject to any defense or offsets which Tenant may have against any prior Landlord (including, without limitation, the then defaulting Landlord);
- c. bound by any payment of rent or additional rent which Tenant might have paid for more than one month in advance of the due date under the Lease to any prior Landlord (including, without limitation, the then defaulting Landlord);
- d. bound by any obligation to make any payment to Tenant which was required to be made prior to the time Lender succeeded to any prior Landlord's interest;
- e. accountable for any monies deposited with any prior Landlord (including security deposits); or
- f. bound by any surrender, termination, amendment or modification of the Lease made without the written consent of Lender.

3. Tenant agrees that, notwithstanding any provision hereof to the contrary, all of Tenant's right, title and interest in and to insurance proceeds and condemnation awards with respect to damage to or the condemnation of any portion of the Property, shall be subject to and subordinate to Lender's right, title and interest in and to such proceeds and awards.

4. Tenant hereby agrees to give to Lender copies of all notices of Landlord default(s) under the Lease in the same manner as, and whenever, Tenant shall give any such notice of default to Landlord, and no such notice of default shall be deemed given to Landlord unless and until a copy of such notice shall have been so delivered to Lender. Lender shall have the right to remedy any Landlord default under the Lease, or to cause any default of Landlord under the Lease to be remedied, and for such purpose Tenant hereby grants Lender a forty-five (45) day period of time to enable Lender to remedy, or cause to be remedied, any such default in addition to the period given to Landlord for remedying, or causing to be remedied, any such default. Tenant shall accept performance by Lender of any term, covenant, condition or agreement to be performed by Landlord under the Lease with the same force and effect as though performed by Landlord. No Landlord default under the Lease shall exist or shall be deemed to exist as long as Lender, in good faith, shall have commenced to cure such default within the above referenced time period. Tenant shall not pursue any remedy available to Tenant as a result of any default by Landlord under the Lease unless Lender fails to cure such default as provided herein.

5. Tenant hereby acknowledges that existence (or future existence) of that certain Assignment of Rents to be recorded with the Cook County Recorder of Deeds, from Landlord to Lender in connection with the Loan. Tenant acknowledges that the interest of the Landlord under the Lease is to be assigned to Lender solely as security for the purposes specified in said assignments, and Lender shall have no duty, liability or obligation whatsoever under the Lease or any extension or

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renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, unless Lender shall specifically undertake such liability in writing or unless Lender or its designee or nominee becomes, and then only with respect to periods in which Lender or its designee or nominee becomes, the fee owner of the Property. Tenant agrees that upon receipt of a written notice from Lender of a default by Landlord under the Loan, Tenant will thereafter, if requested by Lender, pay rent to Lender in accordance with the terms of the Lease.

6. The Lease shall not be assigned by Tenant, modified, amended or terminated without Lender's prior written consent in each instance.

7. Tenant acknowledges and agrees that any default by Tenant hereunder shall permit Lender, at its option, to exercise any and all of its rights and remedies at law and/or in equity against Tenant and to join Tenant in a foreclosure action thereby termination Tenant's right, title and interest in and to any portion of the Property.

8. Any notice, election, communication, request or other document or demand required or permitted under this Agreement shall be in writing and shall be deemed delivered on the earlier to occur of (a) receipt or (b) the date of delivery, refusal or nondelivery indicated on the return receipt, if deposited in a United States Postal Service Depository, postage prepaid, sent certified or registered mail, return receipt requested or if sent via a recognized commercial courier service providing for a receipt, addressed to Tenant or Lender, as the case may be, at the following addresses:

**IF TO TENANT:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IF TO LENDER:**

Chantico Asheville  
180 South Broadway, Suite 406,  
White Plains, NY 10605  
Attn: Roger Neustadt

**WITH A COPY TO:**

BROTSCHUL POTTS LLC  
30 N. LaSalle  
Suite 1402  
Chicago, Illinois, 60602  
Attn: Matthew B. Brotschul

9. The term "Lender" as used herein includes any successor or assign of the named Lender herein, including without limitation, any co-lender at the time of making the Loan, any purchaser at a foreclosure sale and any transferee pursuant to a deed in lieu of foreclosure, and their successors and assigns, and the terms "Tenant" and "Landlord" as used herein include any successor and assign of the named Tenant and Landlord herein, respectively; provided, however, that such reference to Tenant's or Landlord's successors and assigns shall not be construed as Lender's consent to any assignment or other transfer by Tenant or Landlord.

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10. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, such provision shall be deemed deleted from this Agreement, and the other provisions of this Agreement shall remain in full force and effect, and shall be liberally construed in favor of Lender.

11. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing executed by the party against which enforcement of the termination, amendment, supplement, waiver or modification is sought.

12. This Agreement shall be construed in accordance with the laws of the State of Illinois.

13. The person executing this Agreement on behalf of Tenant is authorized by Tenant to do so and execution hereof is the binding act of Tenant enforceable against Tenant. If Tenant consists of two or more parties, each party shall be jointly and severally liable for the obligations contained herein.

14. THE UNDERSIGNED HEREBY CONSENTS TO THE JURISDICTION OF ANY CIRCUIT COURT LOCATED WITHIN THE STATE OF ILLINOIS AND THE COUNTY OF COOK. TENANT WAIVES, AT THE OPTION OF LENDER, TRIAL BY JURY AND WAIVES ANY OBJECTION BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS IN ANY ACTION OR PROCEEDING TO WHICH TENANT AND LENDER MAY BE PARTIES ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY PERTAINING TO THIS AGREEMENT AND/OR ANY OTHER LOAN DOCUMENTS. IT IS ACKNOWLEDGED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS AGREEMENT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY TENANT, AND TENANT HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO, IN ANY WAY, MODIFY OR NULLIFY ITS EFFECT. TENANT FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

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## EXHIBIT A

### THE PROPERTY -- LEGAL DESCRIPTION

LOTS 43 TO 49, BOTH INCLUSIVE, IN BLOCK 44 IN ANDREW AND PIPER'S THIRD ADDITION TO BERWYN, A SUBDIVISION IN SECTION 31, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

CKA: 3229-37 Harlem Avenue, Berwyn, Illinois 60402

PINs:

16-31-108-014-0000  
16-31-108-015-0000  
16-31-108-016-0000  
16-31-108-017-0000  
16-31-108-018-0000  
16-31-108-019-0000  
16-31-108-020-0000

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