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Doc#. 1814129033 Fee: \$64.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 05/21/2018 09:24 AM Pg: 1 of 9

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Prepared by:
Demetri J Retson
Krieg DeVault LLP
8000 Broadway, Suite 400
Merrillville, IN 46410

Mail To:
Same as above

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (this "**Agreement**") is made and entered into as of this 16 day of May, 2018, by and between **CENTIER BANK**, an Indiana state banking association ("**Lender**"), having its principal office at 600 East 84th Avenue, Merrillville, Indiana 46410, **SWC 156th LLC LOT 1**, an Illinois limited liability company ("**Landlord**"), having its principal office at 9440 Enterprise Drive, Mokena, Illinois 60442, and **CHUY'S OPCO, INC.**, a Delaware corporation ("**Tenant**"), having its principal office at 1623 Foomey Road, Austin, Texas 78704, Attention: Chief Administrative Officer.

RECITALS

WHEREAS, by a Ground Lease Agreement dated September 16, 2016, as evidenced by a Memorandum of Lease dated as of November 15, 2017, recorded in the Office of the Recorder of Deeds of Cook County on November 16, 2017 as Document Number 1732034034, by an Assignment of Lease dated as of May __, 2018, whereby SWC 156th, LLC, as original landlord, assigned all rights and obligations as landlord to Landlord (collectively, as the same may have been amended, modified, supplemented, extended or renewed from time to time, the "**Lease**"), Landlord has leased to Tenant and Tenant has leased from Landlord all of that certain property in Orland Park, Cook County, Illinois, as more particularly described in the Lease and on Exhibit A attached hereto (the "**Premises**") and has granted Tenant certain rights to use common areas within the shopping center (the "**Center**") described on Exhibit B attached hereto;

WHEREAS, Lender has made or committed to make a mortgage loan in the amount of here Million Six Hundred Seventy-Five Thousand and No/100 Dollars (\$3,675,000.00) to Landlord to be secured by a mortgage (as the same may be amended, restated, extended, or otherwise modified from time to time, the "**Mortgage**") to be recorded in the Official Records of Cook County, Illinois, which will constitute a lien against the Premises and Center; and

WHEREAS, Tenant desires that Lender recognize Tenant's rights under the Lease and Tenant is willing to attorn to a purchaser at a foreclosure, if any, pursuant to the Mortgage, if Lender and such purchaser recognize Tenant's rights under the Lease;

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NOW THEREFORE, in consideration of the sum of \$10.00 in hand paid and other good and valuable consideration, receipt of which is hereby acknowledged, and for and in consideration of their respective covenants herein made, the parties agree as follows:

1. The Lease is and shall be subject and subordinate to the lien of the Mortgage and Landlord's rights thereunder insofar as it affects the Premises, to the full extent of the principal sum secured thereby and interest thereon, and any other sums secured thereby, except as noted herein.

2. In the event of foreclosure of the Mortgage or transfer of the Premises or Center by deed in lieu of foreclosure or upon a sale of the Premises or Center pursuant to a trustee's power of sale, Lender agrees, which agreement shall bind the purchaser under such a foreclosure or sale or the grantee under the deed in lieu of foreclosure (any such person, a "Successor") that so long as no default by Tenant exists under the Lease beyond any period provided for cure, and no event has otherwise occurred which would entitle the "Landlord" under the lease to terminate the Lease or dispossess Tenant thereunder, the rights of Tenant under the Lease shall not be disturbed or diminished and Tenant shall remain in possession of the Premises (and shall have rights with respect to the Center) in accordance with the terms and conditions of the Lease, except as otherwise set forth herein. Lender further agrees that Lender shall not join Tenant as a party defendant in any foreclosure or other action or proceeding taken by Lender under the Mortgage.

3. Tenant agrees to attorn to and accept any Successor as a result of foreclosure or deed in lieu thereof as Landlord under the Lease and that Tenant will continue to be bound, and to perform all the obligations imposed upon Tenant, by the Lease; provided, however, that Tenant shall be under no obligation to pay any rent or other sums to any Successor until Tenant receives written notice from the Successor that it has succeeded to Landlord's interest in and to the Lease. Landlord and Lender agree (which agreement shall bind any Successor), that upon receipt of written notice from a Successor that such Successor has succeeded to the interest of Landlord under the Lease, Tenant may rely on such notice without inquiry and may pay all rental and other charges reserved under the Lease directly to the Successor. Landlord and Lender further agree (which agreement shall bind any Successor), that any rent payments made by Tenant to a Successor shall be credited by both the Successor and Landlord against Tenant's rental and other obligations under the Lease, regardless of whether the Successor had the right to make such demand and regardless of any contrary demands which may be made by Landlord. Upon such attornment, the Lease shall continue in full force and effect as a direct lease between the Lender or the Successor and Tenant.

4. Notwithstanding any contrary or inconsistent provision of the Mortgage, the proceeds of any fire and extended coverage insurance maintained pursuant to the terms of the Lease shall be handled and/or applied as set forth in the Lease.

5. In the event of a condemnation of all or any portion of the Premises, the obligations of the parties respecting the repair and reconstruction of the Premises, the allocation and disposition of the condemnation award, and Tenant's rights respecting such award, shall be as set forth in the Lease, and controlling over any contrary or inconsistent provision of the Mortgage; no provision of the Mortgage shall limit or affect Tenant's right to seek compensation in the event of a total or partial condemnation.

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6. Landlord represents and warrants to Tenant that the Mortgage is the only mortgage encumbrance on the Premises and that the interest of Tenant under the Lease is not subordinate to any other mortgage, lien or interest.

7. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Premises are located.

8. This Agreement shall also bind and benefit the heirs, legal representatives, successors and assigns of the respective parties hereto, and all covenants, conditions and agreements herein contained shall be construed as running with the land. The word "Lender" as used herein shall mean not only the original Lender named herein but also all future holders of the Mortgage. The word "Tenant" as used herein shall mean not only the original Tenant named herein but also any entity which shall become the owner of the leasehold estate under the Lease and Tenant's rights, benefits and privileges under the Lease in compliance with the Lease. The word "Landlord" as used herein shall mean not only the original Landlord named in the first paragraph hereof but also all future owners of the Property. This Agreement is not intended to and shall not amend or modify the Lease. In the event of an inconsistency or conflict between the terms of this Agreement and the terms of the Lease, or between the terms of the Mortgage and the terms of the Lease, the terms of the Lease shall prevail.

(Signatures Appear on Following Pages)

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day first above written.

Lender:

CENTIER BANK, an Indiana state banking association

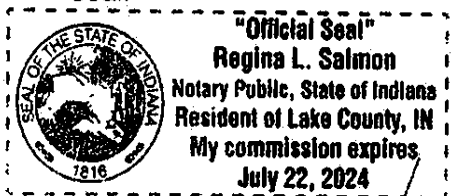
By: [Signature]
Jennifer Willis, Vice President

STATE OF INDIANA)
)
COUNTY OF LAKE)

SS:

BEFORE ME, the undersigned, a Notary Public, on May 16, 2018, personally appeared Jennifer Willis, personally known to me to be the same person whose name is subscribed to the foregoing Subordination, Non-Disturbance And Attornment Agreement as Vice President of Centier Bank, and being first duly sworn by me upon oath, acknowledged that such person has read and understands the foregoing and that such person has affixed such person's name to and delivered said document as such person's own free and voluntary act and as the free and voluntary act of said entities for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



[Signature]
REGINA L. SALMON, Notary Public

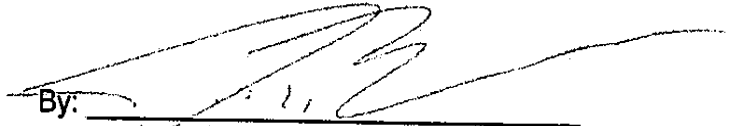
Commission Expires: 7/22/2024

County of Residence: LAKE

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Landlord:

SWC 156th LLC LOT 1, an Illinois limited liability company

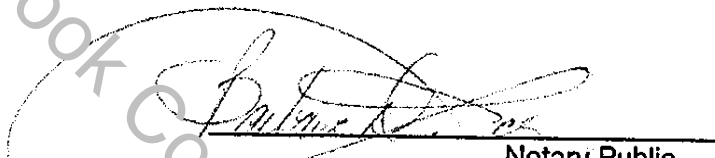
By: 
Joseph T. Bochenski, Manager

STATE OF Illinois)
COUNTY OF Will)

SS:

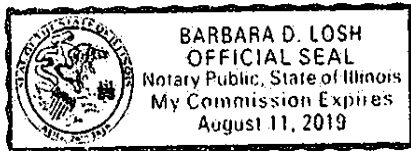
BEFORE ME, the undersigned, a Notary Public, on May 15th, 2018, personally appeared Joseph T. Bochenski, personally known to me to be the same person whose name is subscribed to the foregoing Subordination, Non-Disturbance and Attornment Agreement as Manager of SWC 156th LLC Lot 1, and being first duly sworn by me upon oath, acknowledged that such person has read and understands the foregoing and that such person has affixed such person's name to and delivered said document as such person's own free and voluntary act and as the free and voluntary act of said entities for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.


_____, Notary Public

Commission Expires: 8/11/2019

County of Residence: Franklin



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Tenant:

CHUY'S OPCO, INC., a Delaware corporation

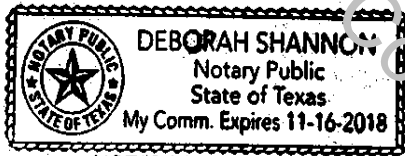
By: *Tim Larson*
TIM LARSON, GENERAL COUNSEL

STATE OF TEXAS)
COUNTY OF TRAVIS)

SS:

BEFORE ME, the undersigned, a Notary Public, on May 15, 2018, personally appeared TIM LARSON, personally known to me to be the same person whose name is subscribed to the foregoing Subordination, Non-Disturbance and Attornment Agreement as GENERAL COUNSEL of Chuy's OpcO, Inc., and being first duly sworn by me upon oath, acknowledged that such person has read and understands the foregoing and that such person has affixed such person's name to and delivered said document as such person's own free and voluntary act and as the free and voluntary act of said entities for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



Deborah Shannon
DEBORAH SHANNON, Notary Public

NOTARY ID# 1141681-7
Commission Expires: 11/16/2018

County of Residence: TRAVIS

This instrument was prepared by and please return to:

**Demetri J. Retson
Krieg DeVault LLP
8000 Broadway, Suite 400
Merrillville, Indiana 46410
219-227-6000**

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EXHIBIT A

Legal Description of Premises

Lot 1 in the Final Plat of Subdivision of LaGrange Retail Development, being part of the Southeast Quarter of Section 16, Township 36 North, Range 12, East of the Third Principal Meridian, according to the Plat thereof recorded February 15, 2018, as Document Number 1804629086, in Cook County, Illinois

Permanent Tax Numbers:

27-16-401-004-0000 (includes subject property and other property)

27-16-401-005-0000 (includes subject property and other property)

27-16-401-008-0000 (includes subject property and other property)

Commonly known as:

15610 LaGrange Road, Orland Park, Cook County, Illinois 60462

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EXHIBIT B

Legal Description of Center

Lots 1-4 in the Final Plat of Subdivision of LaGrange Retail Development, being part of the Southeast Quarter of Section 16, Township 36 North, Range 12, East of the Third Principal Meridian, according to the Plat thereof recorded February 15, 2018, as Document Number 1804629086, in Cook County, Illinois

Permanent Tax Numbers:

- 27-16-401-004-0000 (includes subject property and other property)
- 27-16-401-005-0000 (includes subject property and other property)
- 27-16-401-008-0000 (includes subject property and other property)
- 27-16-401-011-0000 (includes subject property and other property)