

# UNOFFICIAL COPY

Doc#: 1829806118 Fee: \$60.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 10/25/2018 10:30 AM Pg: 1 of 7

THIS INSTRUMENT PREPARED BY AND  
AFTER RECORDING RETURN TO:

Paul J. Dombrowski  
Husch Blackwell LLP  
33 E. Main Street, Suite 300  
Madison, WI 53703

SUBORDINATION, *CGH12902493LD 5085 CATTAN*  
NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), dated as of October 22, 2018, between **TRUONG ENTERPRISES, INC.**, an Illinois corporation ("**Tenant**"), and **BMO HARRIS BANK N.A.** ("**Bank**").

RECITALS:

A. Tenant is the lessee under that certain Industrial Facility Lease between Tenant and **HALSTED-LUMBER STREET, LLC**, an Illinois limited liability company ("**Landlord**"), dated as of October 20, 2011 (the lease and all amendments thereto are hereinafter referred to as the "**Lease**"), covering approximately 61,346 square feet of space in Landlord's building located at 2300 S. Halsted St., Chicago, Illinois 60608, and legally described in **Schedule 1** attached hereto and made a part hereof (the "**Property**").

B. Bank is making a loan (the "**Loan**") to Landlord which is secured, in part, by the lien of a mortgage executed and delivered by Landlord to Bank encumbering the Property (the "**Mortgage**") and an assignment of all leases of and rents from the Property.

C. As a condition to making the Loan, Bank requires that Tenant enter into this Agreement.

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Lease and all terms thereof, including, without limitation, any options to purchase, rights of first refusal, and any similar rights, are and shall be subject and subordinate to the Mortgage, and to all amendments, modifications, replacements and extensions thereof, to the full extent of the principal, interest, fees, expenses and all other amounts secured thereby.

2. In the event Bank elects to foreclose the Mortgage, Bank will not join Tenant in summary or foreclosure proceedings unless required by applicable law (and then only to the extent so required) as long as Tenant (i) has not amended the Lease without Bank's prior written

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consent and (ii) has not committed an Event of Default (as defined in the Lease) that is continuing as of the date of such proceedings.

3. In the event that Bank shall succeed to the interest of Landlord under the Lease and there exists no Event of Default under the Lease by Tenant and Tenant has not amended the Lease without Bank's prior written consent, Bank agrees not to disturb or otherwise interfere with Tenant's possession of the leased premises for the unexpired term of the Lease, provided that Bank shall not be:

- (a) liable for any act or omission of Landlord or any prior landlord under the Lease;
- (b) subject to any claims, offsets or defenses which Tenant might have against Landlord or any prior landlord;
- (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to Landlord or any prior landlord;
- (d) bound by any termination, amendment, modification, or assignment of the Lease made without Bank's prior written consent; or
- (e) liable for any security deposit Tenant might have paid to Landlord or any prior landlord, except to the extent Bank has actually received said security deposit.

4. Upon Bank's succeeding to Landlord's interest under the Lease, Tenant covenants and agrees to attorn to Bank or a purchaser at a foreclosure or trustee's sale, to recognize such successor landlord as Tenant's landlord under the Lease, and to be bound by and perform all of the obligations and conditions imposed upon Tenant by the Lease. If requested by Bank or any subsequent owner, Tenant shall execute a new lease with Bank or its designee or nominee, for a term equal to the remaining term of the Lease and otherwise containing the same provisions and covenants of the Lease.

5. Prior to terminating the Lease due to a default by Landlord thereunder, Tenant agrees to notify Bank of such default and give Bank the opportunity to cure such default within thirty (30) days of Bank's receipt of such notice (or, if such default cannot reasonably be cured within such thirty (30) day period, Bank shall have such longer time as may be necessary to cure the default; provided that Bank commences the cure within such period and diligently pursues the cure thereafter).

6. Any notice, election, communication, request or other document or demand required or permitted under this Agreement shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, paid by the sending party, addressed in each case as follows:

If to Tenant:

Truong Enterprises, Inc.

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2300 S. Halsted Street  
Chicago, IL 60608  
Attention: Tu Luu  
Telephone: (312) 216-2368  
Fax: (312) 226-3084

with a copy to:

Nisen & Elliott, LLC  
200 West Adams Street, Suite 2500  
Chicago, Illinois 60606  
Attention: William Walker

If to Bank:

BMO Harris Bank N.A.  
503 N. Washington St.  
Naperville, IL 60563  
Attention: Javier Gonzalez

BMO Harris Bank N.A.  
111 West Monroe Street  
Chicago, Illinois 60601  
Attention: Portfolio Manager/Halsted Lumber

with a copy to:

Husch Blackwell LLP  
33 E. Main Street, Suite 300  
Madison, WI 53703  
Attention: Paul Dombrowski

or to any other address for such party in the United States of America as it shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

7. This Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.

8. This Agreement can be modified only in writing duly executed by both parties.

9. This Agreement constitutes the entire agreement between Bank and Tenant regarding the subordination of the Lease to the Mortgage and the rights and obligations of Tenant and Bank as to the subject matter of this Agreement. Any inconsistency between the

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Lease and the provisions of this Agreement shall be resolved in favor of this Agreement. Individuals signing this Agreement on behalf of a party hereto represent and warrant that they are authorized to bind that party.

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

11. Upon full and indefeasible repayment of the Loan and the release of the Mortgage by Bank, this Agreement shall automatically terminate and be of no further force and effect.

12. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which when taken together shall constitute one agreement.

[Signature Pages Follow]



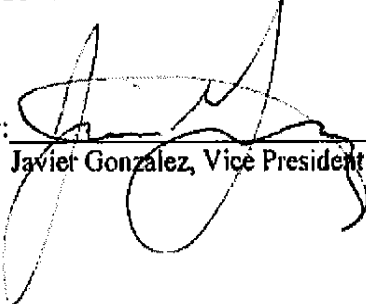
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**BANK:**

**BMO HARRIS BANK N.A.**

By: \_\_\_\_\_

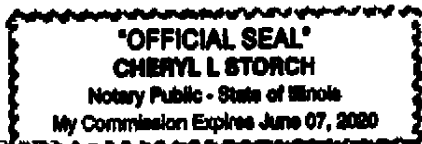
Javier Gonzalez, Vice President



STATE OF Illinois )  
 )ss.  
COUNTY OF Will )

The foregoing instrument was acknowledged before me this 22 day of October, 2018, by Javier Gonzalez, the Vice President of BMO Harris Bank N.A., a national banking association, on behalf of said national banking association.

WITNESS my hand and official seal.



[SEAL]

Cheryl L. Storch  
Notary Public

My commission Expires: 6-7-2020

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## SCHEDULE I LEGAL DESCRIPTION

**Parcel 1:**

Lots 1, 2, 3, 4, 5, 20, 21, 22, 23 and 24 in Block 2 in Thomas O'Neil's Addition to Chicago in Subdivision of the East 8.36 acres of the Northeast fractional 1/4 of Section 29, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

**Parcel 2:**

All that part of the vacated North and South Alley which lies West and adjoining said Lots 1, 2, 3, 4 and 5 and East and adjoining Lot 24 in Block 2 in Thomas O'Neil's Addition to Chicago Aforesaid

**Parcel 3:**

Lots 6, 7, 8, 9 and 10 in Block 2 in Thomas O'Neil's Addition to Chicago in the Subdivision of the East 8.36 acres of the Northeast Fractional 1/4 of Section 29, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

**Parcel 4:**

Lots 11 to 15, both inclusive, in Block 2 in Thomas O'Neil's Addition to Chicago, being a Subdivision of the East 8.36 acres of the Northeast fractional quarter of Section 29, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

**Parcel 5:**

Lots 1 to 5, both inclusive in Block 3 in Thomas O'Neil's Addition to Chicago, being a Subdivision of the East 8.36 acres of the North East fractional 1/4 of Section 29, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

**Parcel 6:**

Lots 6 to 10, both inclusive and Lots 15 to 19 both inclusive, in Block 3 in Thomas O'Neil's Addition to Chicago, being the East 8.36 acres of the North East fractional 1/4 of Section 29, Township 39 North, Range 14 East of the Third Principal Meridian, also the Easterly 105 feet of the alley lying between Lots 6 to 10 both inclusive and 15 to 19 both inclusive vacated by ordinance of April 19, 1980 in Cook County, Illinois.

**Parcel 7:**

All that part of the streets and alleys (except vacated alleys described in parcels 2 and 6) vacated by Ordinance Recorded July 8, 2011 as document number 1118945024 as amended by ordinance recorded August 23, 2011 as document number 112354042 falling within the following described lines: beginning at the Northeast Corner of Lot 1 in Block 2 in T. O'Neil's Addition to Chicago, being the East 8.36 acres of the East Half of the Northeast Fractional Quarter of Section 29, Township 39, Range 14; thence West along the South Line of 22ND place to the Northwest corner of Lot 20 in said Block 2; thence South to the Southwest corner of Lot 10 in Block 3 of Said T. O'Neil's addition; thence Northeasterly along the North Line of South Lumber Street to the Southeast corner of Lot 5 in Said Block 3; Thence North along the West Line of South Halsted Street to the point of beginning in Cook County, Illinois.

**Tax Key Nos/PIN:** 17-29-202-010-0000, 17-29-202-011-0000, 17-29-202-012-0000, 17-29-202-013-0000, 17-29-202-029-0000, 17-29-202-030-0000, 17-29-202-031-0000, 17-29-202-032-0000, 17-29-202-034-0000, 17-29-202-045-0000, 17-29-203-004-0000, 17-29-203-005-0000, 17-29-203-006-0000, 17-29-203-007-0000, and 17-29-202-041-0000

**Address:** 2234-2310 S. Halstead Street, Chicago, IL