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Doc#: 1908849003 Fee: \$60.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 03/29/2019 09:03 AM Pg: 1 of 7

WHEN RECORDED MAIL TO:

**Gold Coast Bank Main.
Office**

**1165 N. Clark St., Suite 200
Chicago, IL 60610**

FOR RECORDER'S USE ONLY

This Subordination, Non-Disturbance and Attornment Agreement and Estoppel Certificate prepared by:

**Joseph Ramos, Esq., In-House Counsel
Gold Coast Bank
1165 N. Clark St., Suite 200
Chicago, IL 60610**

NOTICE: THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE COLLATERAL BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT AND ESTOPPEL CERTIFICATE

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT dated 13th of November, 2018 ("Agreement"), is made and executed among 3818 S Harlem, LLC, an Illinois LLC, whose address is 3818 S. Harlem Ave., Lyons, IL 60534 ("Potential Landlord"); H&R Block Enterprises, LLC, a Missouri limited liability company, whose address is c/o Cushman & Wakefield 575 Maryville Center Dr., Suite 500, Town and County, MO 63141 ("Tenant"); and Gold Coast Bank, Main Office, 1165 N. Clark St., Suite 200, Chicago, IL 60610 ("Potential Lender"). And 1742 W. 99th Street, LLC ("Landlord"). The term "Landlord" as used herein shall mean and include the present landlord under the Lease and such landlord's predecessors and successors in interest under the Lease, but shall not mean or include Potential Landlord unless and until Potential Landlord has succeeded to the interest of Landlord under the Lease.

SUBORDINATED LEASE. Tenant and Landlord have executed a lease dated 12/12/1988 of the property described herein. The following information is the summary of the basic terms and conditions of the Subordinated Lease: The Lease was executed by Tenant and Landlord's predecessor-in-interest on 12/12/1988, which has been amended by Amendment to Shopping Center Lease Dated 04/15/1997, Amendment to Shopping Center Lease dated 04/15/2000, Third Amendment to Shopping Center Lease dated 01/28/2003, Renewal Option Letter dated 3/30/2006, Fourth Amendment to Shopping Center Lease dated 04/17/2009, Fifth Amendment to Shopping Center Lease dated 02/13/2014, Sixth Amendment to Shopping Center Lease dated 02/24/2017 (Said Lease and the referenced amendment (s) thereto are collectively referred to herein as the "Lease").

REAL PROPERTY DESCRIPTION. The Lease covers a portion of the following described real property (the "Real Property") located in Cook County, State of Illinois:

Lot 35 and 36 in Block 1 in Harlem Avenue Resubdivision of Blocks 1 and 4 in Haase and Powells Addition to Riverside, being a subdivision in Section 36, Township 39 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

The Real Property or its address is commonly known as 3820 S. Harlem Ave., Lyons, IL 60534. The Real Property tax identification number is 15-36-415-032-0000.

SUPERIOR INDEBTEDNESS. Potential Lender has extended or has agreed to extend the following described financial accommodations to Berwyn Fruit Market, Inc., an Illinois corporation, secured by the Real Property (the "Superior Indebtedness"): A loan evidenced by the promissory note dated July 12, 2012, in the original principal amount of \$5,500,000.00 from Berwyn Fruit Market, Inc., an Illinois corporation, to Potential Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note.

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT (Continued)

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POTENTIAL LENDER'S LIEN. The Superior Indebtedness is or will be secured by the Real Property and evidenced by a Mortgage, dated _____, from Potential Landlord to Potential Lender (the "Potential Lender's Lien"). As a condition to the granting of the requested financial accommodations, Potential Lender has required that the Potential Lender's Lien be and remain superior to the Subordinated Lease and all of Tenant's rights in the Real Property ("Lease Rights").

REQUESTED FINANCIAL ACCOMMODATIONS. Potential Landlord wants Potential Lender to provide financial accommodations to Berwyn Fruit Market, Inc., an Illinois corporation in the form of the Superior Indebtedness. Potential Landlord represents and acknowledge to Potential Lender that Potential Landlord will benefit as a result of these financial accommodations from Potential Lender to Berwyn Fruit Market, Inc., an Illinois corporation, and Potential Landlord acknowledges receipt of valuable consideration for entering into this Agreement.

SUBORDINATION. Notwithstanding anything in the Lease to the contrary, the parties acknowledge and agree that the Lease and Lease Rights are and shall be subject and subordinate in right, interest and lien, and for all purposes, to Potential Lender's Lien, and to all renewals, modifications, consolidations, replacements, and extensions thereof, and to any subsequent lien of the Potential Lender with which Potential Lender's Lien may be spread or consolidated, to the full extent of the principal sum and all other amounts secured thereby and interest thereon.

NON-DISTURBANCE. So long as the Lease is in full force and effect and Tenant is not in default under the Lease beyond any applicable cure period, Potential Lender shall not name or join Tenant as a defendant in any exercise of Potential Lender's rights and remedies arising upon a default of the Loan under the Note and/or under Potential Lender's Lien. When Potential Lender succeeds to the interest of Landlord or Potential Landlord, the Potential Lender shall not terminate or disturb Tenant's possession of Tenant's premises under the Lease, except in accordance with the terms of the Lease and this Agreement.

ATTORNMENMENT. If Potential Lender shall succeed to the interest of the Potential Landlord under the Lease, and the Lease shall not have expired or been terminated in accordance with the terms of the Lease or this Agreement, Tenant shall upon receipt of written notice, from and after such event, attorn to Potential Lender, all rights and obligations under the Lease to Continue as though the interest of Landlord or Potential Landlord had not terminated. Such attornment shall be effective and self-operative without the execution of any further instrument on the part of the parties hereto. Tenant shall execute and deliver any instrument or certificate, in accordance with the Lease, to evidence such attornment.

NO LIABILITY FOR POTENTIAL LENDER. Potential Lender in the event of attornment shall have the same remedies in the event of any default by Tenant (beyond any period given Tenant to cure such default) in the payment of annual base rent or additional rent or in the performance of any of the terms, covenants, and conditions of the Lease on Tenant's part to be performed that are available to Potential Landlord under the Lease. Tenant shall have the same remedies against Potential Lender for the breach of an agreement contained in the Lease that Tenant might have had against Potential Landlord if Potential Lender had not succeeded to the interest of Potential Landlord; provided, however, that Potential Lender shall not be:

- (A) Liable for any act or omission of or any claims against any prior landlord, including Potential Landlord, but shall be obligated to cure any continuing defaults of prior landlord once notified in writing; or
- (B) Subject to any offsets or defenses which Tenant might have against any prior landlord, including Landlord except for such offsets or defenses relating to continuing acts or omission.

ACKNOWLEDGMENT AND AGREEMENT BY LANDLORD. Landlord, as landlord under the Lease, acknowledges and agrees for itself and its heirs, successors and assigns to each of the following:

- (A) This Agreement does not in any way release Landlord or Potential Landlord from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Note, Potential Lender's Lien or any other documents executed in connection with the Loan.
- (B) In the event of a default under the Note, or any of the other documents executed in connection with the Loan, Landlord hereby consents to Tenant's attornment to Potential Lender and, upon such event, Tenant shall pay all rent and all other sums due under the Lease to Potential Lender as provided in the Lease. Such payments to Potential Lender shall constitute full performance of Tenant's rental payment obligations under the Lease.
- (C) Landlord and Potential Landlord hereby expressly authorizes Tenant to make such payments to Potential Lender and hereby releases and discharges Tenant from any liability to Landlord or Potential Landlord on account of such payments.

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT (Continued)

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BLANK SPACES. Whether prior to or after execution of this Agreement by any of the parties hereto, the parties hereto authorize Potential Lender to complete any blank spaces contained in this Agreement that pertain to dates having to do with loan information, or loan amounts by filling in the appropriate information.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by all parties herein.

Authority. Any person who signs this Agreement on behalf of Landlord, Potential Landlord, and Tenant represents and warrants that he or she has authority to execute this Agreement.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Counterparts. This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts, taken together, shall constitute one and the same Agreement.

Governing Law. This Agreement will be governed by federal law applicable to Potential Lender and, to the extent not preempted by federal law, the laws of the State of Illinois without regard to its conflicts of law provisions. This Agreement has been accepted by Potential Lender in the State of Illinois.

Notices. Any notice required to be given under this Agreement shall be given in writing pursuant to the Lease and directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address.

No Waiver by Potential Lender. Potential Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Potential Lender.

As between Landlord and Tenant. Nothing set forth herein shall be deemed to amend, modify, or waive any terms of the Lease.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Successors. This Agreement shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Agreement.

EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND EACH PARTY AGREES TO ITS TERMS. THIS AGREEMENT IS DATED 15th OF NOVEMBER 2018.

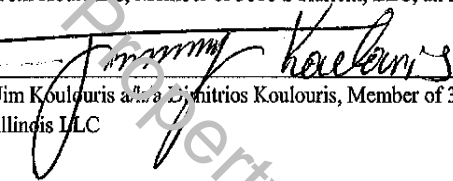
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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (Continued)

POTENTIAL LANDLORD:

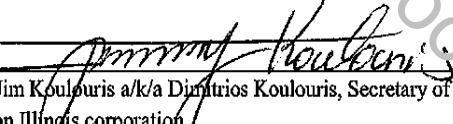
3818 S HARLEM, LLC, AN ILLINOIS LLC

By: 
Tom Koulouris, Member of 3818 S Harlem, LLC, an Illinois LLC

By: 
Jim Koulouris a/k/a Dimitrios Koulouris, Member of 3818 S Harlem, LLC, an Illinois LLC

TJK MANAGEMENT INC., AN ILLINOIS CORPORATION, Manager of 3818 S Harlem, LLC, an Illinois LLC

By: 
Tom Koulouris, President of TJK Management Inc., an Illinois corporation

By: 
Jim Koulouris a/k/a Dimitrios Koulouris, Secretary of TJK Management Inc., an Illinois corporation

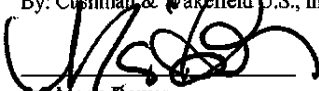
POTENTIAL LENDER:

GOLD COAST BANK

X _____
Authorized Officer

TENANT:

H&R Block Enterprises, LLC
By: Cushman & Wakefield U.S., Inc., as Agent


By: Marie Bower
Its: Manager

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (Continued)

TENANT ACKNOWLEDGMENT

STATE OF Missouri)

) SS

COUNTY OF St Charles)

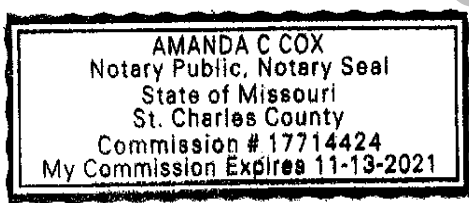
On this 4th day of December, 2018 before me, the undersigned Notary Public, personally appeared and known to me to be (a) member(s) or designated agent(s) of the limited liability company that executed the Subordination, Non-Disturbance and Attornment Agreement and acknowledged the Agreement to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and each stated that he or she/they is/are authorized to execute this Agreement and in fact executed the Agreement on behalf of the limited liability company.

Cashman and Wakefield

By Marie Bower Residing at 575 Maryville Centre Dr Suite 500

Notary Public in and for the State of Missouri
Amanda C Cox Amanda C Cox

My commission expires 11-13-2021



Cook County Clerk's Office

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ESTOPPEL CERTIFICATE

THIS ESTOPPEL CERTIFICATE (hereinafter referred to as "Certificate") is made this 13th day of November, 2018, by and between H&R Block Enterprises LLC ("Tenant") to 3818 S Harlem, LLC, an Illinois limited liability company ("Potential Buyer") and 1742 W. 99th Street, LLC ("Landlord") in connection with 3820 S. Harlem, Lyons, IL, 60534-1219, (the "Premises").

To the best of the Tenant's knowledge, as of the above referenced date, the Tenant hereby acknowledges the following:

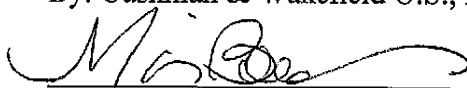
1. Tenant is the current tenant per the Lease dated 12/12/1988, which has been amended by Amendment to Shopping Center Lease Dated 04/15/1997, Amendment to Shopping Center Lease dated 04/15/2000, Third Amendment to Shopping Center Lease dated 01/28/2003, Renewal Option Letter dated 3/30/2006, Fourth Amendment to Shopping Center Lease dated 04/17/2009, Fifth Amendment to Shopping Center Lease dated 02/13/2014, Sixth Amendment to Shopping Center Lease dated 02/24/2017 (Said Lease and the referenced amendment(s) thereto are collectively referred to herein as the "Lease").
2. The original term of the Lease commenced on 01/03/1989.
3. The Lease is due to expire on 04/30/2022.
4. The square footage of the Premises is 1,544 sf.
5. Tenant has accepted and is now in possession of the Premises as outlined in the Lease.
6. The amount of the current monthly base rent is \$5,270.00. Additional rent as outlined per the Lease is paid monthly as follows: None. All amounts have been paid in full through 11/30/2018.
7. The amount of the Security Deposit (if any) is \$0.00.
8. Except for unknown defects, as of the date hereof, all improvements, alterations and space required to be furnished according to the Lease have been completed to the satisfaction of Tenant. All sums required to be paid by Landlord to Tenant in connection with the improvements (including, without limitation, any tenant allowance or rebate) have been paid in full, except: \$878.85 for HVAC repair reimbursement.
9. As of the date hereof, Landlord has performed all of its obligations under the Lease.
10. Tenant has no option to renew or extend the Lease term, except as follows: Sixth Amendment to Shopping Center Lease in Paragraph 3.

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11. Tenant does not have the option or right of first refusal to purchase the Building/Property or to expand, the Leased Premises except as outlined per Lease.
12. Tenant has not sublet or assigned any portion of the Leased Premises as outlined per the Lease.
13. Tenant does not have an "exclusive" use per the Lease for the Building/Property, except as follows: Third Amendment to Shopping Center Lease in Paragraph 6.
14. Currently there exists no breach, default, or condition which, with the giving of written notice or the passage of time or both, would constitute a breach or default under the Lease either by Tenant or Landlord.
15. The person signing this Certificate on behalf of Tenant is a duly authorized agent of the Tenant.
16. This statement does not cover facts or conditions not within the Tenant's actual knowledge at the time of execution.
17. Any notices which may or shall be given to Tenant under the terms of the Lease are to be sent to Tenant at the following address:

Cushman & Wakefield U.S., Inc.
Attn: H&R Block FRE# 12846
575 Maryville Centre Drive, Suite 500
St. Louis, MO 63141

H&R Block Enterprises LLC
By: Cushman & Wakefield U.S., Inc., as Agent



By: Marie Bower
Its: Manager