



Doc# 2116513078 Fee \$93.00

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

O'Reilly Auto Enterprises, LLC
233 S. Patterson
Springfield, MO 65802
Attn: Rhonda Mallonee

RHSP FEE: \$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 06/14/2021 04:01 PM PG: 1 OF 7

SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT (this "Agreement") is effective as of _____ by and between Genworth Life Insurance Company, a Delaware corporation ("Lender"), Irving Park Barlett, LLC, an Illinois limited liability company ("Landlord") and O'Reilly Auto Enterprises, LLC, a Delaware limited liability company ("Tenant").

WITNESSETH

WHEREAS, Landlord and Tenant have entered into that certain Lease dated June 23, 2006 and any amendment or modification thereto (collectively, the "Lease"), covering certain premises generally described as 25 East Irving Park Road, Streamwood, Illinois 60107 located on real property situated in Cook County, Illinois (the "Property"); and

WHEREAS, Lender holds a mortgage dated June 23, 2006 given by Landlord on the Property (the "Mortgage").

NOW, THEREFORE, in consideration of the mutual covenants, conditions, provisions and agreements set forth in this Agreement, as of the date hereof, Lender, Landlord and Tenant hereby represent, acknowledge, covenant and agree as follows:

1. The Lease. Landlord and Tenant covenant and represent to Lender and to each other that the Lease is in full force and effect.
2. Subordination. Tenant hereby subordinates the Lease at all times and in all respects to the Mortgage and to all renewals, modifications and extensions thereof. The Lease is and shall at all times be subordinate in all respects to the Mortgage and to all renewals, modifications and extensions thereof, but Lender and Tenant agree that any foreclosure of the Mortgage shall not terminate the Lease.
3. Non-Disturbance. Tenant's possession under the Lease and Tenant's rights and privileges thereunder shall not be diminished or interfered with by Lender, and accordingly, Tenant's occupancy shall not be disturbed by Lender during the term of the Lease, except in accordance with the terms of the Lease.

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4. Recognition and Attornment. If Lender succeeds to the interest of Landlord in and to the Property or under the Lease, the Lease and all terms therein, and the rights of Tenant thereunder shall continue in full force and effect and shall not be altered, terminated or disturbed, and Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the Lease term thereof with the same force and effect as if Lender were the landlord under the Lease. In such event, Tenant shall attorn to Lender as its landlord, such attornment to be effective and self-operative without the execution of any other instruments on the part of Lender or Tenant. Upon receipt by Tenant of such notice from Lender, Tenant shall make all payments of monetary obligations due by Tenant under the Lease to Lender or as Lender may in writing direct, with no liability to Landlord. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the lease term of the Lease, shall be and are the same as are then in existence between Tenant and Landlord as set forth in the Lease.

5. Rights Under the Lease. If Lender shall (a) succeed to the interests of Landlord in and to the Property or under the Lease, or (b) enter into possession of the Property, Lender shall not be:

- (i) liable for any acts or omissions of any prior landlord (including, but not limited to, Landlord), unless Tenant shall have given notice of such act or omission, and such act or omission is of a continuing nature, to the party who was the then holder of the Mortgage (whether or not such holder elected to cure or remedy such act or omission); or
- (ii) obligated to give Tenant a credit for and/or acknowledge any rent or additional rent which Tenant has paid to Landlord or any prior landlord which is in excess of the rent or additional rent due under the Lease unless such payment is provided for in the Lease as presently existing or as amended in accordance with this Agreement; or
- (iii) liable for any damages Tenant may suffer as a result of any misrepresentation, breach of warranty or any act or failure to act by any party other than Lender.
- (iv) responsible for any security deposit paid to Landlord which is not in Lender's or a Mortgage purchaser's actual possession.

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6. Lender Opportunity to Cure Landlord Defaults. Tenant hereby agrees that it shall provide Lender with a copy of any notice of default given to Landlord, pursuant to the terms of the Lease. In the case of any default by Landlord under the Lease which is of such a nature as to give Tenant a right to terminate the Lease, to reduce rent, or to credit or offset any amounts against future rents, Tenant agrees that no such remedy shall be exercised unless and until Lender shall have been given written notice of such default and the same time to cure such default as Landlord has under the Lease. The cure rights set forth in this Section 6 may be exercised in the sole discretion of Lender, and under no circumstance shall Lender be required to undertake curative measures on behalf of Landlord.

7. Notices. Any notice required or permitted to be delivered hereunder shall be deemed received on the date actually received or rejected if the notice is deposited in the United States mail, postage prepaid, certified mail, return receipt requested, or one business day after being sent by Federal Express or similar overnight courier, addressed to Tenant, Landlord or Lender, as the case may be, at the address of such party set forth opposite the signature of such party hereto, or such other address as may thereafter be provided in writing to the respective parties. Any notice sent to any party hereunder shall be sent to all parties hereunder. Tenant shall be entitled to rely upon any notice from Lender hereunder as to the matters stated in and covered by any such notice.

8. Assignment of Rents. Tenant acknowledges and agrees that this Agreement constitutes notice to Tenant of the existence of the Mortgage and that the Lease and the rent have been assigned to Lender as security for the note.

9. Applicable Law. This Agreement is governed by and will be construed in accordance with the laws of the State of Illinois.

10. Entire Agreement. This Agreement contains the sole and entire agreement and understanding between the parties with respect to the subject matter hereof and shall supersede any and all other oral or written agreements between the parties with respect to the subject matter hereof. If this Agreement conflicts with the Lease, then the Lease shall govern as between the parties and any Successor Landlord, including upon any attornment pursuant to this Agreement.

[Remainder of page intentionally left blank.]

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IN WITNESS WHEREOF, the parties hereto have caused this Subordination, Non-Disturbance and Attornment Agreement to be duly executed on the respective dates indicated below (the latest of which is the date hereof), but this Agreement is made by the parties hereto effective as of the day and year first above written.

LENDER:

August 21, 2020

Date

Genworth Life Insurance Company

10851 Mastin, Suite 300
Overland Park, Kansas 66210

By:

Name:

Title:

Philip Hart
Philip Hart
Investment Officer

LENDER ACKNOWLEDGEMENT

STATE OF Virginia)

COUNTY OF Chesterfield

On this 21st day of August, 2020, before me personally appeared Philip Hart, to me known to be the person described in and who executed the foregoing and acknowledged that (s)he executed the same as his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal in the County of Chesterfield, the day and year first above written.

Commonwealth Of Virginia
Christal Gilliam Schlosser - Notary Public
Commission No. 7810825
My Commission Expires 2/28/2023

Christal Gilliam Schlosser
Notary Public

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TENANT:

March 1, 2021

O'Reilly Auto Enterprises, LLC,
a Delaware limited liability company

233 South Patterson
Springfield, MO 65802
Attn: Property Management

By: Carol E. Kirkman
Name: Carol E. Kirkman
Title: Director of Property Management
& ADA Compliance

TENANT ACKNOWLEDGEMENT

STATE OF MISSOURI)
)
COUNTY OF GREENE)

On this 1st day of March, 2021, before me personally appeared Carol Kirkman to me known to be the person described in and who executed the foregoing and acknowledged that she executed the same as her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal in the County of Greene, the day and year first above written.

KAREN MARIE DANIEL
Notary Public - Notary Seal
STATE OF MISSOURI
Dade County
My Commission Expires Apr. 13, 2024
Commission #20775524

Karen Marie Daniel
Notary Public

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LEGAL DESCRIPTION

LOTS 1 AND 2 IN THE RESUBDIVISION OF LOT 1 IN IRVING STREAMWOOD SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 19, 2000 AS DOCUMENT 00362424 IN THE VILLAGE OF STREAMWOOD, COOK COUNTY, ILLINOIS.
25 EAST IRVING PARK ROAD, STREAMWOOD, ILLINOIS 60107

06-26-117-012-0000

Property of Cook County Clerk's Office