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Doc#. 2210316105 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 04/13/2022 12:11 PM Pg: 1 of 11

**THIS DOCUMENT WAS PREPARED
BY AND AFTER RECORDING RETURN
TO:**

Clark Hill PLC
130 East Randolph Street
Suite 3900
Chicago, IL 60601
Attn: Chad M. Poznansky, Esq.

PIN: 13-23-410-029-0000

Address:

3262-3348 W. Belmont, Chicago,
Illinois 60618

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "**Agreement**") is made and entered into as of the ^{4th} day of April, 2022, by and between **R & R GOLDMAN & ASSOCIATES, INC. DBA DISCOVERY CLOTHING CO.**, an Illinois corporation ("**Tenant**"), **KENNEDY PLAZA BK, L.L.C.**, an Illinois limited liability company and **KENNEDY PLAZA RL, L.L.C.**, an Illinois limited liability company (collectively, "**Landlord**"), and **LAKESIDE BANK**, an Illinois state chartered bank, its successors and assigns ("**Mortgagee**").

RECITALS:

A. Mortgagee is the holder of a certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of even date herewith (as amended from time to time "**Mortgage**") encumbering the Real Estate (hereinafter defined) and securing a loan to Landlord, **DELRAY BK, L.L.C.**, an Illinois limited liability company, and **DELRAY RL, L.L.C.** an Illinois limited liability company in an amount not to exceed TWENTY MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$20,500,000.00) (the "**Loan**").

B. Tenant (or Tenant's predecessor-in-interest) has entered into a lease agreement (such lease agreement hereinafter being referred to as "**Lease Agreement**," and the Lease Agreement, together with all amendments and modifications and assignments thereof, hereinafter

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being referred to as "**Lease**") dated May 1, 1989 with Landlord (or Landlord's predecessor-in-interest), pursuant to which Tenant leased the certain premises ("**Leased Premises**") consisting of approximately 9,206 square feet of space in the building commonly known as 3348 West Belmont Avenue, Chicago, Illinois 60618 ("**Building**") on the land ("**Land**") legally described in Exhibit A attached hereto (the Land and Building herein being collectively referred to as "**Real Estate**").

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

1. Tenant represents and warrants to Mortgagee that the Lease constitutes the entire agreement between Tenant and Landlord with respect to the Leased Premises and there are no other agreements, written or verbal, governing the tenancy of Tenant with respect to the Leased Premises.

2. Tenant has executed and delivered to Mortgagee a certain Tenant Estoppel Certificate (the "**Estoppel Certificate**") dated on or about the date hereof. The provisions of the Estoppel Certificate are hereby incorporated into this Agreement as if fully set forth in this Agreement in their entirety, and Tenant acknowledges that Mortgagee will be relying on the statements made in the Estoppel Certificate in determining whether to disburse the proceeds of the loan secured by the Mortgage and whether to enter into this Agreement.

3. Prior to pursuing any remedy available to Tenant under the Lease, at law or in equity as a result of any failure of Landlord to perform or observe any covenant, condition, provision or obligation to be performed or observed by Landlord under the Lease (any such failure hereinafter referred to as a "**Landlord's Default**"), Tenant shall: (a) provide Mortgagee with a notice of Landlord's Default specifying the nature thereof, the section of the Lease under which same arose and the remedy which Tenant will elect under the terms of the Lease or otherwise, and (b) allow Mortgagee not less than thirty (30) days (or such lesser time period provided to Landlord pursuant to the Lease) following receipt of such notice of Landlord's Default to cure the same. Tenant shall not pursue any remedy available to it as a result of any Landlord's Default unless Mortgagee fails to cure same within the time period specified above.

4. Tenant covenants with Mortgagee that Tenant's interest in the Lease shall be subject and subordinate to the lien and all other provisions of the Mortgage and to all modifications and extensions thereof, to the full extent of all principal, interest and all other amounts now or hereafter secured thereby and with the same force and effect as if the Mortgage had been executed and delivered prior to the execution and delivery of the Lease. Without limiting the generality of the foregoing subordination provision, Tenant hereby agrees that any of its right, title and interest in and to insurance proceeds and condemnation awards (or other similar awards arising from eminent domain proceedings) with respect to damage to or the condemnation (or similar taking) of any of the Real Estate, shall be subject and subordinate to Mortgagee's right, title and interest in and to such proceeds and awards.

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5. Tenant acknowledges that Landlord has collaterally assigned to Mortgagee all leases affecting the Real Estate, including the Lease, and the rents and other amounts, including, without limitation, lease termination fees, if any, due and payable under such leases. In connection therewith, Tenant agrees that, upon receipt of a notice of a default by Landlord under such assignment and a demand by Mortgagee for direct payment to Mortgagee of the rents due under the Lease, Tenant will honor such demand and make all subsequent rent payments directly to Mortgagee. Tenant further agrees that any Lease termination fees payable under the Lease shall be paid jointly to Landlord and Mortgagee.

6. Mortgagee agrees that so long as Tenant is not in default under the Lease that remains uncured after applicable notice and cure periods:

(a) Tenant shall not be named or joined as a party in any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage (unless Tenant is a necessary party under applicable law); and

(b) The use, enjoyment and possession by Tenant of the Leased Premises and Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease or the term thereof be terminated or otherwise adversely affected by (i) any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage, or by any judicial sale or execution or other sale of the Leased Premises, or any deed given in lieu of foreclosure, or (ii) any default under the Mortgage.

7. If Mortgagee or any future holder of the Mortgage shall become the owner of the Real Estate by reason of foreclosure of the Mortgage or otherwise, or if the Real Estate shall be sold as a result of any action or proceeding to foreclose the Mortgage or transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant and the new owner of the Real Estate as "landlord" upon all the same terms, covenants and provisions contained in the Lease (subject to the exclusions set forth in subparagraph (b) below), provided that the new owner shall agree in writing to assume and accept the obligations of "landlord" under the terms of the Lease and recognize the rights of Tenant thereunder, and in such event:

(a) Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if Tenant elects or has elected to exercise its options to extend the term), and Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "landlord" under the Lease without any additional documentation to effect such attornment (provided, however, if applicable law shall require additional documentation at the time Mortgagee exercises its remedies then Tenant shall execute such additional documents evidencing such attornment as may be required by applicable law);

(b) Such new owner shall be bound to Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension

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periods, if Tenant elects or has elected to exercise its options to extend the term); provided, however, that such new owner shall not be:

(i) liable for any act or omission of any prior landlord (including Landlord) unless continuing;

(ii) subject to any offsets or defenses which Tenant has against any prior landlord (including Landlord) unless Tenant shall have provided Mortgagee with (A) notice of the Landlord's Default that gave rise to such offset or defense and (B) the opportunity to cure the same, all in accordance with the terms of Paragraph 3 above;

(iii) bound by any base rent, percentage rent, additional rent or any other amounts payable under the Lease which Tenant might have paid in advance for more than the current month to any prior landlord (including Landlord);

(iv) liable to refund or otherwise account to Tenant for any security deposit not actually paid over to such new owner by Landlord;

(v) bound by any future amendment or modification of the Lease made without Mortgagee's consent;

(vi) bound by any obligation to perform work or to make improvements to the Premises except for repairs and maintenance pursuant to the terms of the Lease; or

(vii) personally liable or obligated to perform any such term, covenant or provision, such new owner's liability being limited in all cases to its interest in the Real Estate.

8. Any notices, communications and waivers under this Agreement shall be in writing and 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, addressed in each case as follows:

To Mortgagee: **LAKESIDE BANK**
1350 S. Michigan Avenue
Chicago, IL 60605
Attn: Justin P. Newhuis, Senior Vice President

With a copy to: **CLARK HILL PLC**
130 East Randolph Street
Suite 3900
Chicago, IL 60601
Attn: Chad M. Poznansky, Esq.

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To Tenant: **R & R GOLDMAN & ASSOCIATES, INC.**
4300 North Knox Avenue
Chicago, Illinois 60641
Attn: Kenny Goldman

With a copy to: **HORWOOD MARCUS & BERK**
CHARTERED
500 W. Madison Street, Suite 3700
Chicago, Illinois 60661
Attn: Kristin L. Dunlap, Esq.

or to any other address as to any of the parties hereto, as such party 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.

9. Tenant acknowledges and agrees that Mortgagee will be relying on the representations, warranties, covenants and agreements of Tenant contained herein and that any default by Tenant hereunder shall permit Mortgagee, at its option, to exercise any and all of its rights and remedies at law and in equity against Tenant and to join Tenant in a foreclosure action thereby terminating Tenant's right, title and interest in and to the Leased Premises.

10. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns and any nominees of Mortgagee, all of whom are entitled to rely upon the provisions hereof. This Agreement shall be governed by the laws of the State of Illinois.

11. This Agreement may be executed in multiple counterparts and all of such counterparts together shall constitute one and the same Agreement.


[Signature Pages Follows]

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IN WITNESS WHEREOF, the parties hereto have executed this Subordination, Non-Disturbance and Attornment Agreement as of the day and year first above written.

Tenant:

R & R GOLDMAN & ASSOCIATES, INC.,
an Illinois corporation dba Discovery Clothing Co.

By: 
Name: Kenny Goldman
Its: Chief Executive Officer

STATE OF IL)
)) SS.
COUNTY OF COOK)

I, Dairyn Hower, a Notary Public in and for said County in the State aforesaid, do hereby certify that **Kenny Goldman**, the Chief Executive Officer of **R & R Goldman & Associates, Inc. dba Discovery Clothing Co.**, an Illinois corporation who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes set forth herein.

Given under my hand and notarial seal on March 21st, 2022.



Notary Public



My Commission Expires:

8/20/2023

[Signatures continue on next page]

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Landlord:

**KENNEDY PLAZA BK, L.L.C.,
an Illinois limited liability company**

**By: Centrum NRG Manager, Inc.,
an Illinois corporation, its Manager**

By: Barbara McLinden
Name: Barbara McLinden
Title: Sole Officer and Director

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

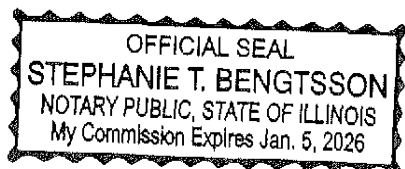
I, STEPHANIE T. BENGTTSSON a Notary Public in and for said County, in the State aforesaid, do hereby certify that Barbara McLinden, the Sole Officer and Director of Centrum NRG Manager, Inc., an Illinois corporation, the Manager of KENNEDY PLAZA BK, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President of the Manager of KENNEDY PLAZA BK, L.L.C., appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 14 day of August, 2022.

Stephanie T. Bengtsson
NOTARY PUBLIC

My commission expires: 1/5/2026

(SEAL)



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**KENNEDY PLAZA RL, L.L.C.,
an Illinois limited liability company**

**By: Centrum NRG Manager, Inc.,
an Illinois corporation, its Manager**

By: *Barbara McLinden*
Name: Barbara McLinden
Title: Sole Officer and Director

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

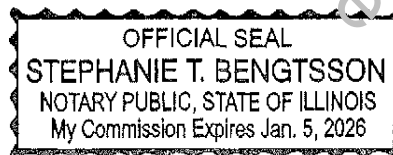
I, STEPHANIE BENGTTSSON a Notary Public in and for said County, in the State aforesaid, do hereby certify that Barbara McLinden, the Sole Officer and Director of Centrum NRG Manager, Inc., an Illinois corporation, the Manager of KENNEDY PLAZA RL, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President of the Manager of KENNEDY PLAZA RL, L.L.C., appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 9th day of MARCH, 2022.

Stephanie Bengtsson
NOTARY PUBLIC

My commission expires: 1/5/2026

(SEAL)



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Mortgagee:

LAKESIDE BANK,
an Illinois state chartered bank

By: _____
Name: Justin Newhuis
Title: Senior Vice President

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

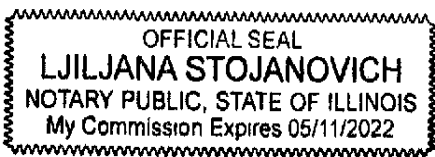
I, LJILJANA STOJANOVICH Notary Public in and for said County in the State aforesaid, do hereby certify that JUSTIN NEWHUIS, the SVP of **LAKESIDE BANK**, an Illinois state chartered bank ("Bank"), who is personally known to be to be the same person whose name is subscribed to the foregoing instrument as such SVP, appeared before me this day in person and acknowledged that he/she signed and delivered such instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes set forth therein.

Given under my hand and notarial seal on APRIL 4, 2022

Notary Public

My Commission Expires:

05/11/22



[End of signature pages]

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EXHIBIT A

Legal Description of Real Estate

PARCEL 1:

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF WEST BELMONT AVENUE (BEING A LINE 33 FEET NORTH OF AND MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE SOUTH LINE OF SECTION 23, AFORESAID), AND THE EAST LINE OF NORTH KIMBALL AVENUE (BEING A LINE 43 FEET EAST OF AND MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 23); THENCE NORTH ALONG SAID EAST LINE OF NORTH KIMBALL AVENUE, 351 FEET; THENCE NORTHEASTERLY 56.98 FEET TO A POINT IN A LINE 386.4 FEET NORTH OF AND PARALLEL WITH SAID NORTH LINE OF WEST BELMONT AVENUE, 44.78 FEET EAST OF SAID EAST LINE OF NORTH KIMBALL AVENUE; THENCE EAST ALONG SAID PARALLEL LINE, 162.03 FEET TO A POINT 206.81 FEET EAST OF THE EAST LINE OF NORTH KIMBALL AVENUE; THENCE SOUTHEASTERLY 96.55 FEET TO A POINT IN A LINE 360.67 FEET NORTH OF AND PARALLEL WITH SAID NORTH LINE OF WEST BELMONT AVENUE; THENCE EAST ALONG SAID PARALLEL LINE 75 FEET TO A POINT IN A LINE 374.76 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF NORTH KIMBALL AVENUE, AFORESAID; THENCE SOUTHEASTERLY 122.59 FEET ALONG A LINE DRAWN TO A POINT IN A LINE 485.02 FEET EAST OF AND PARALLEL WITH THE SAID EAST LINE OF NORTH KIMBALL AVENUE, 307.50 FEET NORTH OF THE NORTH LINE OF WEST BELMONT AVENUE; THENCE CONTINUE SOUTHEASTERLY 111.44 FEET ALONG A LINE DRAWN TO A POINT IN A LINE, 585.02 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF NORTH KIMBALL AVENUE, 258.68 FEET NORTH OF SAID NORTH LINE OF WEST BELMONT AVENUE; THENCE CONTINUE SOUTHEASTERLY 41.90 FEET TO A POINT IN A LINE 616.99 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF NORTH KIMBALL AVENUE, 231.71 FEET NORTH OF SAID NORTH LINE OF WEST BELMONT AVENUE; THENCE SOUTH PERPENDICULAR TO THE NORTH LINE OF WEST BELMONT AVENUE, A DISTANCE OF 94.16 FEET; THENCE SOUTHWESTERLY ON AN ANGLE, 30 DEGREES, 00 MINUTES, 00 SECONDS, MEASURED FROM SOUTH TO WEST, A DISTANCE OF 48.00 FEET; THENCE SOUTH PERPENDICULAR TO THE NORTH LINE OF WEST BELMONT AVENUE, A DISTANCE OF 96.00 FEET TO THE NORTH LINE OF WEST BELMONT AVENUE; THENCE WEST ALONG THE SAID NORTH LINE, A DISTANCE OF 592.10 FEET TO THE POINT OF BEGINNING (EXCEPT THEREFROM THAT PART OF THE ABOVE DESCRIBED TRACT OF LAND DEDICATED FOR PUBLIC STREET BY PLAT OF DEDICATION RECORDED MAY 12, 1982 AS DOCUMENT 26227331, IN COOK COUNTY, ILLINOIS.

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PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE DECLARATION OF RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED APRIL 13, 2007 AS DOCUMENT 0710342139 FOR EASEMENTS FOR INGRESS AND EGRESS, UTILITIES, TEMPORARY CONSTRUCTION, PARKING AND REASONABLE USE OVER AND UPON THE COMMON AREAS ON THE PROPERTY LYING EAST OF AND ADJOINING LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS: THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 40 NORTH, RANGE 13, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF KIMBALL AVENUE AND THE NORTH LINE OF BELMONT AVENUE, THENCE EAST ALONG SAID NORTH LINE 592.10 FEET TO THE POINT OF BEGINNING, THENCE NORTH AT RIGHT ANGLES 96 FEET, THENCE NORTHEASTERLY AT AN ANGLE OF 30 DEGREES 00 MINUTES 00 SECONDS, MEASURED FROM NORTH TO EAST, 48 FEET, THENCE NORTH PERPENDICULAR TO THE NORTH LINE OF BELMONT AVENUE 94.16 FEET TO THE SOUTHERLY LINE OF THE NORTH WEST EXPRESSWAY, THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY LINE TO A POINT 765.97 FEET EAST OF KIMBALL AVENUE AND 106.05 FEET NORTH OF THE NORTH LINE OF BELMONT AVENUE, THENCE SOUTH PARALLEL WITH SAID EAST LINE 36.05 FEET, THENCE SOUTHEASTERLY 106.50 FEET TO A POINT ON THE NORTH LINE OF BELMONT AVENUE 845.97 FEET EAST OF THE EAST LINE OF KIMBALL AVENUE, THENCE WEST ALONG SAID NORTH LINE 253.87 FEET TO THE POINT OF BEGINNING.

ADDRESS OF PROPERTY: 3262-4438 WEST BELMONT, CHICAGO, ILLINOIS 60618

PIN: 13-23-410-029-0000