

UNOFFICIAL COPY



2218610049

RECORDING REQUESTED BY:

Byline Bank
180 North LaSalle Street
Suite 300
Chicago, IL 60601

Doc# 2218610049 Fee \$88.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 07/05/2022 11:29 AM PG: 1 OF 9

WHEN RECORDED MAIL TO:

Byline Bank
180 North LaSalle Street
Suite 300
Chicago, IL 60601
ATTN: Loan Operations Department

LOAN: #21001007790-9001

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT ("Agreement") is entered into as of the 22nd day of June, 2022 by and among DURATRACK, INC. ("Tenant"), BRATT CAPITAL PARTNERS, LLC SERIES 1050 ("Landlord") and BYLINE BANK ("Lender").

RECITALS

This agreement is entered into with reference to the following facts:

- a. This Agreement affects the Property described in Exhibit "A" attached hereto
- b. The terms "Tenant", "Landlord", "Lender", "Premises", "Lease", "Property", "Loan", "Notes", and "Mortgage" are defined in the Schedule of definitions attached hereto as Exhibit "B".
- c. Landlord and Tenant have entered into the Lease covering the Premises in the Property.
- d. Lender will not make or continue the Loan to Bratt Capital Partners, LLC Series 1050, evidenced by the Note, which Note is secured by the Mortgage covering the Property, unless the Lease is subordinated to the lien of the Mortgage.
- e. The parties hereto desire expressly to confirm the subordination of the Lease to the lien of the Mortgage, it being a condition precedent to Lender's obligation to make or continue the Loan that the lien of the Mortgage be at all times prior and superior to the leasehold interests and estates created by the Lease.

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AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants contained herein and of other good and valuable consideration, the parties agree as follows:

Subordination. Anything to the contrary in the Lease notwithstanding, but subject to the terms and conditions of this Agreement, the Lease and the leasehold estate created thereby, and all of Tenant's rights thereunder, are and shall be and shall at all times remain subject, subordinate and inferior to the Mortgage and the lien thereof, and all rights of Lender thereunder and to any and all renewals, revisions, modifications, consolidations, replacements and extensions thereof.

Acknowledgment and Agreement by Tenant. Tenant acknowledges and agrees that:

- a. Lender would not make or have made the Loan without this Agreement.
- b. Lender, in making or having made any disbursements to Landlord, is or was under no obligation or duty to oversee or direct the application of the proceeds of such disbursements, and such proceeds may be used by landlord for purposes other than improvement of the Property.
- c. From and after the date hereof, in the event of any act or omission by Landlord which would give Tenant the right, either immediately or after the lapse of time, to terminate the Lease or to claim a partial or total eviction, Tenant will not exercise any such right:
 - (i) until it has given written notice of such act or omission to Lender; and
 - (ii) until the same period of time as is given to Landlord under the Lease to cure such act or omission and an additional period of time of thirty (30) days.
- d. Tenant has notice that the Lease and the rent and all other sums are due thereunder have been assigned or are to be assigned to Lender as security for the Loan secured by the Mortgage. In the event that Lender notifies Tenant of a default under the Mortgage and demands that Tenant pay its rent and all other sums due under the Lease directly to Lender, Tenant shall honor such demand and pay its rent and all other sums due under the Lease directly to Lender or as otherwise required pursuant to such notice.
- e. Tenant shall send a copy of any notice given Landlord under the Lease to Lender at the same time such notice is sent to Landlord.
- f. Tenant shall not agree to any amendment or modification of the Lease without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed (and if Lender fails to give a bona fide objection within ten (10) business days after receiving such request, then Lender's consent shall be deemed to have been given).
- g. Tenant shall not enter into any assignment or sublease requiring Landlord consent under the terms of the Lease without also obtaining Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed (and if Lender fails to give a bona fide objection within twenty (20) days after receiving such request, then Lender's consent shall be deemed to have been given provided, however, that such request must include (i) the name of the proposed transferee; (2) the nature of the proposed transferee's business to be carried on in the Premises; (iii) the terms of the proposed sublease or assignment; and (iv) a current financial statement for the proposed transferee.

Acknowledgment and Agreement by Landlord. Landlord, as landlord under the Lease, acknowledges and agrees for itself and its heirs, successors and assigns, that:

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a. This Agreement does not: (1) constitute a waiver by Lender of any of its rights under the Mortgage; and/or (2) in any way release Landlord from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Mortgage.

b. The provisions of the Mortgage remain in full force and effect and must be complied with by Bratt Capital Partners, LLC Series 1050.

c. In the event Lender notifies Tenant of a default under the Mortgage, Tenant must pay all rent and all sums due under the Lease directly to Lender or as otherwise required pursuant to Lender's notice, and any and all claims for such rent and other sums by Landlord against Tenant are hereby waived and released.

d. Landlord shall not agree to any amendment or modification of the Lease without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed (and if Lender fails to give a bona fide objection within ten (10) business days after receiving such request from either Landlord or Tenant, then Lender's consent shall be deemed to have been given).

e. Landlord shall not consent to any assignment or subletting requiring Landlord's consent under the terms of the Lease without obtaining Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed (and if Lender fails to give a bona fide objection within ten (10) business days after receiving such request from either Landlord or Tenant, then Lender's consent shall be deemed to have been given provided, however, that such request must include (i) the name of the proposed transferee; (2) the nature of the proposed transferee's business to be carried on in the Premises; (iii) the terms of the proposed sublease or assignment; and (iv) a current financial statement for the proposed transferee.

No Obligation of Lender. Lender shall have no obligation with respect to the erection or completion of the improvements in which the premises are located or for completion of the Premises or any improvements for Tenant's use and occupancy, either at the commencement of the term of the Lease or upon any renewal or extension thereof or upon the addition of additional space, pursuant to any expansion rights contained in the Lease. The foregoing shall not affect any repair, maintenance or restoration obligations of Lender as successor Landlord.

Miscellaneous.

a. This Agreement supersedes any inconsistent provisions of the Lease.

b. Nothing contained in this Agreement shall be construed to derogate from or in any way impair or affect the lien and charge or provisions of the Mortgage.

c. In the event that Lender shall acquire title to the Premises or the Property, Lender shall have no obligation, nor incur any liability, beyond Lender's interest, if any, in the Premises, including without limitation insurance and condemnation proceeds, and the proceeds from any sale or other disposition of the Premises, and in the event Tenant obtains a money judgment against Lender, Tenant shall look exclusively to such interest of Lender (or its successors or assigns), if any, in the Premises for the payment and discharge of any obligations imposed upon Lender hereunder or under the Lease and Lender is hereby released and relieved of any obligation to pay such judgment using funds other than the interest of Lender, or its successors or assigns, in the Premises. The foregoing shall not be deemed to prevent Tenant from seeking equitable remedies, including specific enforcement of the terms of the Lease.

d. This Agreement shall inure to the benefit of the parties hereto, their respective successors and permitted assigns; provided, however, that in the event of the assignment or transfer of the interest of Lender, all obligations and liabilities of Lender arising under this Agreement from and after the date of such assignment or transfer shall terminate; provided and on the condition that Landlord's obligations under the Lease are assumed in writing by such assignee or transferee.

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

f. All notices, demands, requests or other communications required or permitted hereunder shall be deemed delivered and received (i) one business day after being sent by overnight courier, or (ii) three business days after deposit in the United States certified or registered mail, return receipt requested, postage prepaid, and addressed to the respective parties at the addresses specified in Exhibit "B." attached hereto.

g. Lender represents that it has full authority to enter into this Agreement, and Lender's entry into this Agreement has been duly authorized by all necessary actions.

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

LENDER:

BYLINE BANK

By: 
Authorized Officer

TENANT:

DURATRACK, INC

By: _____
_____, President

LANDLORD:

BRATT CAPITAL PARTNERS, LLC SERIES 1050

By: 
Sebastian Madej, Manager

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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BYLINE BANK

By: _____
Authorized Officer

TENANT:

DURATRACK, INC

By: 
_____, President

LANDLORD:

BRATT CAPITAL PARTNERS, LLC SERIES 1050

By: _____
Sebastian Madej, Manager

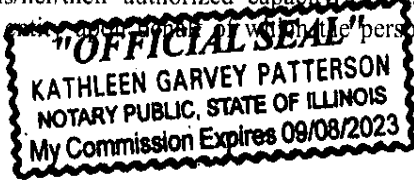
Property of Cook County Clerk's Office

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CERTIFICATE OF ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF DuPage

On June 21, 2022, before me, Andrew Kowalski ^{Undersigned}, personally appeared Andrew Kowalski, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Kathleen Garvey Patterson

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF _____

On _____, before me, _____, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

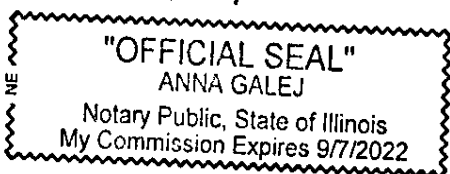
CERTIFICATE OF ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF Cook

On June 22nd, before me, a Notary Public, personally appeared Sebastian Madej, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Anna Galej



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CERTIFICATE OF ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF _____

On _____, before me, _____,
personally appeared _____, personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

WITNESS my hand and official seal.

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF _____

On _____, before me, _____,
personally appeared _____, personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

WITNESS my hand and official seal.

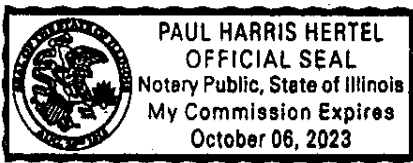
CERTIFICATE OF ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF Cook

On 6-22-2022, before me, Paul Harris-Hertel
personally appeared Russell Scott, personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

WITNESS my hand and official seal.

Paul Harris-Hertel



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EXHIBIT "A"

PROPERTY DESCRIPTION

LEGAL DESCRIPTION

LOT 68 IN CENTEX INDUSTRIAL PARK UNIT NUMBER 39, BEING A SUBDIVISION IN SECTION 34, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address of Property:
950 Morse Ave., Elk Grove Village, IL 60007-5108

Property of Cook County Clerk's Office

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EXHIBIT "B"

SCHEDULE OF DEFINITIONS

"Lender" means Byline Bank. All notices to Lender shall be delivered or mailed to:

Byline Bank
180 North LaSalle Street
Suite 300
Chicago, IL 60601

Attn.: Loan Operations Department

"Mortgage" means a Mortgage dated of even date herewith, encumbering the Property, executed by Bratt Capital Partners, LLC Series 1050, as Mortgagor, to Byline Bank, as Mortgagee, in favor of Lender, securing repayment of the loan evidenced by the note and securing certain other obligations, recorded or to be recorded in the Official Records of Cook County Illinois.

"Landlord" means Bratt Capital Partners, LLC Series 1050. All notices to Landlord shall be delivered or mailed to the notice address set forth in the Lease.

"Lease" means a certain lease entered into by and between Landlord and Tenant dated June 22, 2022, covering the Premises.

"Loan" means a real estate loan in an amount not to exceed \$4,435,000.00 from Lender to Bratt Capital Partners, LLC Series 1050.

"Note" means that certain Note executed by Bratt Capital Partners, LLC Series 1050, in favor of Lender dated of even date herewith in the amount of \$4,435,000.00.

"Premises" has the meaning set forth in the Lease. The street address of the Premises is 620-630 Morse Ave. and 950 Morse Ave., Elk Grove Village, IL 60007-5108.

"Property" means the real property more particularly described in Exhibit "A" to the Agreement to which this Schedule is attached, together with the improvements thereon.

"Tenant" means Duratrack, Inc. All notices to Tenant shall be delivered or mailed to the notice address set forth in the Lease.