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KAREN A. YARBROUGH
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3 of 4

(Space above reserved for Recorder of Deeds certification)

Title of Document: Attornment Agreement
Date of Document: 3 - 29, 2024
Grantor(s): 1319 North Ave LLC
9760 S. Roberts Rd., Suite 2B
Palos Hills, IL 60465
Grantee(s): OakStar Bank
1020 E. Battlefield
Springfield, MO 65804
Mailing Address(s): OakStar Bank
1020 E. Battlefield
Springfield, MO 65807
Legal Description: See Exhibit A
PIN No: 12-34-405-021-0000

PREPARED BY &

When recorded, return to:
Krista Souser
OakStar Bank
1020 E. Battlefield, Springfield, MO 65807

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ATTORNMEN T AGREEMENT

THIS ATTORNMEN T AGREEMENT (this “Agreement”) is entered into as of March 29, 2024 (the “Effective Date”) by and between OAKSTAR BANK, a Missouri state chartered bank, having an address at 1020 E. Battlefield, Springfield, Missouri 65807 (“Lender”), 1319 NORTH AVE LLC, an Illinois limited liability company, having an address at 9760 S. Roberts Rd., Suite 2b, Palos Hills, Illinois 60465 (“Landlord”) and ANDY’S FROZEN CUSTARD STORES, LLC, an Illinois limited liability company, having an address at 211 E. Water St., Springfield, Missouri 65806 (“Tenant” and “Borrower”), with reference to the following facts:

A. Landlord owns a fee simple interest in the real property described in **Exhibit “A”** attached hereto (the “Property”).

B. Landlord and Tenant have entered into that certain Ground Lease Agreement dated August 17, 2023 (together with any amendments, “Premises Lease”) whereby Landlord has leased the real property described therein (the “Leased Premises”) to Tenant. Terms used herein shall have the same meaning ascribed to such terms in the Premises Lease except as otherwise defined herein.

C. Lender has agreed to extend certain financing to Tenant (the “Loan”) to be evidenced by one or more promissory notes (collectively the “Note”) and secured by, among other collateral, a Leasehold Mortgage encumbering all of Tenant’s interest in the Property (“Mortgage”).

D. Lender desires to enter into this Agreement with Landlord and Tenant to further clarify relative rights, duties and obligations with respect to the Premises Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Collateral Assignment of Premises Lease. To secure all indebtedness and obligations of the Borrower to Lender, whether now existing or hereafter accruing, including under the Loan, and payment of all sums due and fulfillment of all of the terms under the Note, Mortgage and any other loan document (the “Obligations”), Borrower hereby conveys, transfers and assigns unto Lender, its successors and assigns, all of Borrower’s entire right, title and interest in and to the Premises Lease pursuant to the Mortgage executed by Borrower simultaneously herewith, but in no event encumbering the Building, Site Improvements or Landlord’s fee interest in the Premises. Landlord consents to and acknowledges this assignment from Tenant to Lender. This assignment is immediate and continuing provided, however, that Tenant shall enjoy all of its rights as a “tenant” under the Premises Lease for so long as Tenant is not in default under the terms of the Mortgage, Note, any other loan document, or the Premises Lease.

2. Non-Disturbance. So long as Tenant is not in default under the Premises Lease (or if such default is cured by Tenant or Lender) Landlord shall not terminate or disturb Tenant’s (or Lender’s) possession of the Leased Premises under the Premises Lease except in accordance with this Agreement. If any action or proceeding is commenced by Lender for the foreclosure of the Mortgage, Landlord shall not be named as a party therein unless such joinder shall be required by law, and provided that such joinder shall not result in the termination of the Premises Lease or disturb Tenant’s and/or Lender’s possession or use of the Leased Premises, and the sale of Tenant’s interest in the Leased Premises in any such action or proceeding and the exercise by Lender of any of its other rights under the Mortgage shall be made subject to all rights of Landlord under the Premises Lease.

3. Attornment. Upon Lender taking possession of the Leased Premises either by foreclosure pursuant to the Mortgage, or by any other means, Lender agrees to comply with the Premises Lease and to be bound by all the terms and conditions thereof, including the cure of any Tenant defaults under the Premises Lease within five (5) business days after taking possession of the Leased Premises (except as provided in this Agreement). In such event the parties agree that the Premises Lease shall continue in full force and effect with Lender as “tenant” under the Premises Lease except as modified in this Agreement. If Lender takes possession of the Leased Premises and becomes a successor tenant under the Premises Lease, Landlord hereby agrees to transfer any prepaid rent, paid to Landlord by Tenant to Lender (or for the benefit of Lender). Notwithstanding the foregoing or anything to the contrary in this Agreement or the Premises Lease,

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Landlord and Lender agree that, in the event that Lender takes possession of the Leased Premises either by foreclosure pursuant to the Mortgage, or by any other means, Section 5.1 of the Premises Lease shall not be enforced against Lender; provided however, the written consent of Landlord will be required for Lender or any other transferee under the Mortgage to utilize the Premises for a purpose other than an Andy's Frozen Custard, such consent not to be unreasonably withheld, conditioned or delayed by Landlord.

4. Notice to Lender. Landlord and Tenant hereby agree to give Lender written notice of any alleged or actual default, change, modification, alteration, termination or any other breach by Tenant under the Premises Lease. Notwithstanding any other term or provision of the Premises Lease, Lender shall have the cure rights set forth in Section 7 below. If Lender elects to cure any such default or breach then Landlord agrees that at Lender's option either (i) Landlord will recognize and accept any action of cure of such default or breach made by Lender on behalf of Tenant and shall continue the Premises Lease with respect to the Tenant as if Tenant had cured the breach, or (ii) Lender may exercise its rights under the Mortgage and take possession of the Leased Premises in accordance therewith. In such event Lender shall be deemed to be a "Successor Tenant" and shall be deemed to be an assignee of the Tenant under the Premises Lease with all of the duties, obligations, rights and privileges of the Tenant under the Premises Lease as if the Lender had been the original tenant thereunder. Landlord and Tenant shall not, without the written consent of Lender, enter into any agreement the effect of which would be to shorten the term of the Premises Lease or otherwise modify Tenant's rights of possession and use of the Leased Premises.

5. Representations and Warranties. Landlord and Tenant hereby represent and warrant that (i) the Premises Lease is in full force and effect, (ii) no events of default or other breaches of the Premises Lease exist as of the date hereof, and (iii) no modifications or amendments have been made to the Premises Lease as of the date of this Agreement.

6. Further Documentation. The provisions of this Agreement shall be effective and self-operative without any need for Landlord, Lender or Tenant to execute any further documents. Landlord, Tenant and Lender shall, however, confirm the provisions of this Agreement in writing upon request by either of them within twenty (20) days of such request.

7. Lender's Right to Cure. Notwithstanding anything to the contrary in the Premises Lease or this Agreement, before exercising any right to terminate the Premises Lease:

(a) Notice to Lender. Landlord shall provide Lender with notice of the breach or default by Tenant giving rise to same (the "Default Notice") and, thereafter, the opportunity to cure such breach or default as provided for below.

(b) Lender's Cure Period. After Lender receives a Default Notice, Lender shall have a period of ten (10) days beyond the time available to Tenant under the Premises Lease in which to cure the breach or default by Tenant. Lender shall have no obligation to cure (and shall have no liability or obligation for not curing) any breach or default by Tenant, except to the extent that Lender agrees or undertakes otherwise in writing. In addition, as to any breach or default by Tenant the cure of which requires possession and control of the Leased Premises by Lender, Lender's cure period shall continue for such additional time (the "Extended Cure Period") as Lender may reasonably require either (i) to obtain possession and control of the Leased Premises with due diligence and thereafter cure the breach or default with reasonable diligence and continuity, or (ii) to obtain the appointment of a receiver and give such receiver a reasonable period of time in which to cure the default.

8. Notices. All notices by any party hereto shall be made to the addresses set forth below. Any notice given hereunder shall be in writing and may be sent by Federal Express, certified or registered mail, postage prepaid, addressed to the party to receive the notice. Any notice mailed in accordance with the preceding sentence shall be deemed to have been given and served two (2) business days after it is deposited in the mail or with Federal Express. If a party by notice to the other parties, at any time, designates a different address for receipt notices, notices thereafter shall

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be sent to the address so given. Actual receipt of written notice by a party shall be deemed to comply with this section regardless of the means of delivery.

If to Lender: OakStar Bank
Attn. Chief Lending Officer
1020 E. Battlefield
Springfield, MO 65804

with copy to: Rod Nichols
Spencer Fane LLP
2144 E. Republic Rd., Ste. B300
Springfield, MO 65804

If to Tenant: Andy's Frozen Custard Stores
211 E. Water St.
Springfield, MO 65806

If to Landlord: 1319 North Ave LLC
Attn. George Andrews
9760 S. Roberts Rd., Suite 2B
Palos Hills, Illinois 60465

with copy to: Skoubis Alikakos, LLC
Attn. John N. Skoubis
19903 E. Algonquin Rd., Suite 230
Schaumburg, Illinois 60173

9. Insurance. Notwithstanding any provision of the Premises Lease, Tenant shall cause its insurance policies to name Lender as a mortgagee, loss payee, or such other capacity as may be required by Lender.
10. Successors and Assigns. This Agreement shall bind and benefit the parties, their successors and assigns.
11. Entire Agreement. This Agreement constitutes the entire agreement among the parties regarding the subject matter of this Agreement.
12. Interaction with Lease and with Mortgage. If this Agreement conflicts with the Premises Lease, then this Agreement shall govern as between the parties. This Agreement supersedes, and constitutes full compliance with, any provisions in the Premises Lease with respect to assignment of Tenant's rights under the Premises Lease to Lender.
13. Lender's Rights and Obligations. Except as expressly provided for in this Agreement, Lender shall have no obligations to Landlord with respect to the Premises Leases.
14. Interpretation; Governing Law. The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the internal laws of the state where the Leased Premises are located, excluding such jurisdiction's principles of conflict of laws.
15. Amendments. This Agreement may be amended, discharged or terminated, or any of its provisions waived, only by a written instrument executed by the party to be charged.
16. Due Authorization. The undersigned parties represent that they have full authority to enter into this Agreement, which has been duly authorized by all necessary actions.
17. Waiver of Jury Trial. The parties hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to the Agreement.
18. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[SIGNATURE PAGES FOLLOW]

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COUNTERPART SIGNATURE PAGE ATTORNMENT AGREEMENT

IN WITNESS WHEREOF, the Lender, Landlord and Tenant have caused this Agreement to be executed as of the date first above written.

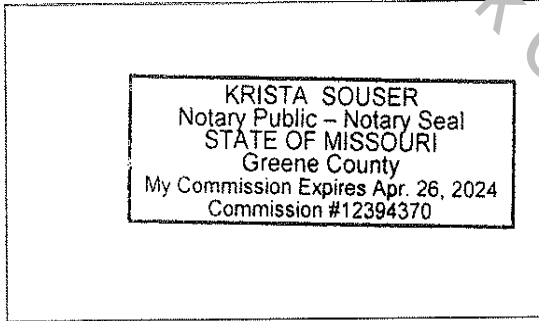
LENDER:
OAKSTAR BANK

By: *Luke Fraser*
Luke Fraser, Senior Executive Vice President

STATE OF MISSOURI)
) ss
COUNTY OF GREENE)

On this 6 day of March, 2024, personally appeared before me Luke Fraser, to me personally known who, being by me duly sworn, did say that he is a Senior Executive Vice President of OakStar Bank, and acknowledged that he executed the foregoing instrument as the free act and deed of OakStar Bank in his capacity as Senior Executive Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.



Place notary stamp in box above in black ink and press firmly.

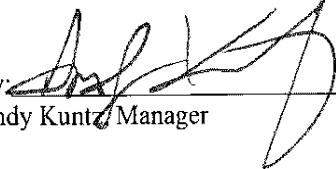
Krista Souser
Notary Public
Krista Souser
Print Name
My Commission expires: 4-26-24
My Commission is in Greene County.

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COUNTERPART SIGNATURE PAGE ATTORNMMENT AGREEMENT

IN WITNESS WHEREOF, the Lender, Landlord and Tenant have caused this Agreement to be executed as of the date first above written.

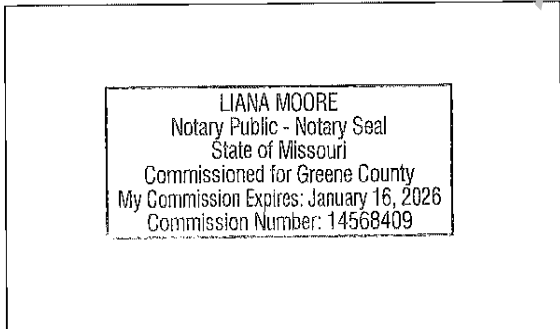
TENANT:
ANDY'S FROZEN CUSTARD STORES, LLC

By: 
Andy Kuntz, Manager

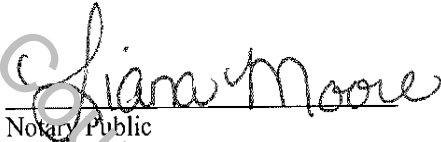
STATE OF MISSOURI)
) ss
COUNTY OF Greene)

On this 4 day of March, 2024, personally appeared before me Andy Kuntz, to me personally known who, being by me duly sworn, did say that he is the Manager of Andy's Frozen Custard Stores, LLC and acknowledged that he executed the foregoing instrument as the free act and deed of Andy's Frozen Custard Stores, LLC in his capacity as Manager.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.



Place notary stamp in box above in black ink and press firmly.


Notary Public

Liana Moore
Print Name
My Commission expires: 01/16/26
My Commission is in Greene County.

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EXHIBIT A

Legal Description

THE EAST 180.00 FEET OF THE WEST 210.00 FEET OF THE SOUTH 280.00 FEET OF THAT PART OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF A LINE, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID WEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 34, A DISTANCE OF 104.85 FEET NORTH OF THE SOUTH LINE OF SAID SECTION; THENCE WEST TO A POINT ON THE WEST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 34, A DISTANCE OF 104.50 FEET NORTH OF THE SOUTH LINE OF SAID SECTION, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office