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SUBMITTED PROFESSIONAL TITLE COMPANY

FILED SARPY CO. NE.
INSTRUMENT NUMBER

2013-30787

2013 Sep 30 02:24:24 PM

Sheryl J. Dowling

REGISTER OF DEEDS



Upon Recording Return To:
James D. Buser, Esq.
Pansing Hogan Ernst & Bachman LLP
10250 Regency Circle
Suite 300
Omaha, NE 68114

Papillion, NE (Sam's)
Store No. 6181

SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT (this "SNDA") is made as of the 30th day of September, 2013, by and among **SAM'S REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, with offices at 2001 S.E. 10th Street, Attention: Realty Management—Nebraska Store No. 6181, Bentonville, Arkansas 72716-0550, its sublessees and assigns (collectively, "Lessee"), **PAPILLION DEVELOPMENT SETTLER'S CREEK, LLC**, a Nebraska limited liability company, with offices at % RED Development, LLC, One East Washington, Suite 300, Phoenix, Arizona 85004, Attn: Director of Legal/Leasing ("Lessor") and **FIRST NATIONAL BANK OF OMAHA**, a national banking association, with offices at 1620 Dodge Street, Omaha, Nebraska 68102, Attn: Senior Mortgage Loan Officer ("Mortgagee").

PRELIMINARY STATEMENTS

Mortgagee is the holder of the following instruments (as amended and assigned, collectively, the "Mortgage"): (1) Deed of Trust, Security Agreement and Assignment of Rents, dated August 29, 2006, and recorded on August 31, 2006 at Instrument number 2006-30028 in the records of Sarpy County, Nebraska, (2) Assignment of Rents and Leases dated August 29, 2006, and recorded on August 31, 2006 at Instrument number 2006-30029 in the records of Sarpy County, Nebraska (the instruments described in (1) and (2) being referred to as the

"Mortgage 1 Instruments"), (3) Deed of Trust, Security Agreement and Assignment of Rents (Settler's Creek Hobby Lobby), dated February 28, 2013, and recorded on March 4, 2013 at Instrument number 2013-06476 in the records of Sarpy County, Nebraska and (4) Assignment of Rents and Leases (Settler's Creek Hobby Lobby) dated February 28, 2013, and recorded on March 4, 2013 at Instrument number 2013-06477 in the records of Sarpy County, Nebraska (the instruments described in (3) and (4) being referred to as the "Mortgage 2 Instruments"). The Mortgage 1 Instruments encumber the real property legally described in Exhibit A attached hereto and the Mortgage 2 Instruments encumber the real property described in Exhibit "B" attached hereto (all such real property being hereinafter collectively referred to as the "Premises"). Lessee leased from Lessor a portion of the Premises pursuant to that certain Ground Lease dated May 1, 2013 ("Lease"), between Lessor and Lessee. Lessee desires that the Lease shall not terminate, but rather shall remain in full force and effect in accordance with its terms in the event that the Mortgage is foreclosed or any foreclosure sale of the mortgaged Premises is made or any transfer therein in lieu of foreclosure is made and Mortgagee desires that Lessee subordinate its interest in the Lease to the lien of the Mortgage. Lessor will deliver a copy of the Lease and any amendments to Mortgagee, the receipt of which is hereby acknowledged.

NOW, THEREFORE, in consideration of the Premises and other good and valuable consideration in hand paid, the parties hereto agree as follows:

1. To the extent required by the Mortgage and other loan documents, Mortgagee hereby consents and approves the Lease, including the options to extend the term as set forth in the Lease. Lessee acknowledges and agrees that the rights granted to Lessee under Section 25 of the Lease shall not apply to Mortgagee's exercise of the power of sale or foreclosure rights under the Mortgage and any "sale" of the real estate and Premises at the trustee or foreclosure proceedings sale, provided it is understood and agreed that: (i) Lessee may be a purchaser at any such sale; and (ii) Mortgagee or any purchaser at such sale shall be bound by such provisions of the Lease as may be applicable to a subsequent sale of the real estate and Premises.

2. The Lease is, and shall remain, subject and subordinate to the lien of the Mortgage and to any extensions, modifications, consolidations or renewals thereof.

3. So long as Lessee is not in default in the performance of any terms, covenants and conditions to be performed on its part under the Lease beyond any applicable cure period, then in such event:

(a) Lessee shall not be joined as a party defendant in any foreclosure proceeding which may be instituted by Mortgagee; and

(b) Lessee's leasehold estate under the Lease shall not be terminated, barred, cut off, or otherwise disturbed by reason of any default under the Mortgage or any foreclosure proceedings instituted or finalized by Mortgagee.

4. If Mortgagee shall succeed to the interest of Lessor in and to the Lease, whether through possession, foreclosure proceeding, or delivery of a deed in lieu of foreclosure, Lessee shall attorn to and recognize Mortgagee or any other purchaser at a foreclosure sale as Lessee's landlord under the Lease, and shall promptly execute and deliver an attornment agreement in the form of this SNDA to evidence such attornment. Upon and after such attornment, the Lease shall continue in full force and effect as a direct lease between

Mortgagee or such purchaser and Lessee upon all of the terms, conditions and covenants as are set forth in the Lease, except that Mortgagee or such purchaser shall not be:

(a) liable for any act or omission of any prior lessor (including Lessor as lessor), except that to the extent such act or omission is continuing and the Mortgagee or other purchaser had actual notice of such act or omission; and in such event Lessee shall retain all rights and remedies available to Lessee at law or pursuant to the Lease to the extent such act or omission is continuing; or

(b) subject to any offsets or defenses (other than accord and satisfaction) which Lessee might have against any such prior lessor, except to the extent such offsets or defenses arise out of acts or omissions by Mortgagee or such other purchaser, and provided further, that nothing herein shall limit Lessee's offsets or defenses for Mortgagee's or each other purchaser's responsibility for breach of the covenant of quiet enjoyment under the Lease or for any offsets or defenses that arise therefrom; or

(c) bound by any prepayment of rent or additional rent which Lessee might have paid more than thirty (30) days in advance, except as otherwise expressly required by the terms of the Lease; or

(d) bound by any material amendment or modification of the Lease or by any waiver or forbearance as to either (i) the term of the Lease, or (ii) the rent or other monetary obligations under the Lease, unless Mortgagee or such other purchaser has approved or consented to such amendment, modification, waiver or forbearance in writing; or

(e) bound to return any security deposit unless Mortgagee or such other purchaser has actually received that security deposit.

5. This SNDA shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

6. Lessee agrees to provide Mortgagee with a simultaneous copy of any notice of default delivered to Lessor.

7. Until such time as Lessee is otherwise notified in writing by Mortgagee, it shall make all rental payments under the Lease to Lessor as provided therein. Upon notice from Mortgagee to Lessee to make Lease payments to Mortgagee, Lessee shall make such Lease payments to Mortgagee without inquiry or liability to Lessor.

8. At any time before the rights of the Lessor shall have been forfeited or adversely affected because of any default on its part, or within the time permitted the Lessor to cure any default under the Lease as there provided, Mortgagee may, at its option, pay any taxes and assessments, make any repairs and improvements, make any deposits or do any other act or thing required of the Lessor by the terms of the Lease, and all payments so made and all things so done and performed by Mortgagee shall be as effective to prevent the rights of the Lessor from being forfeited or adversely affected because of any default under the Lease as the same would have been if done and performed by the Lessor.

9. Any required notices to Mortgagee shall be in writing and shall be given by registered or certified mail, return receipt requested, postage prepaid, at the address of

Mortgagee as hereinabove set forth, with a copy to Pansing Hogan Ernst & Bachman, LLP, Attn: James D. Buser, Esq., 10250 Regency Circle, Suite 300, Omaha, Nebraska 68114, or at such other address as Mortgagee may designate by notice.

10. Any notices or communications given to Lessee under this SNDA shall be in writing and shall be given by registered or certified mail, return receipt requested, postage pre-paid, at the address of Lessee hereinabove set forth, also to the attention of Realty Management Dept. 9384 at 2001 S.E. 10th Street, Bentonville, Arkansas 72716-0550 Attn: Nebraska Store No. 6181 or at such other address as Lessee may designate by notice. During the period of any postal strike or other interference with the mail, personal delivery shall be substituted for registered or certified mail. No default notice given by Lessee under the Lease shall be effective as against Mortgagee unless a duplicate copy thereof has been given to Mortgagee.

11. This SNDA shall bind and inure to the benefit of and be binding upon and enforceable by the parties hereto and their respective successors and assigns.

12. This SNDA contains the entire agreement between the parties and cannot be changed, modified, waived or canceled except by an agreement in writing executed by the party against whom enforcement of such modification, change, waiver or cancellation is sought.

13. This SNDA and the covenants herein contained are intended to run with and bind all lands affected hereby.

14. This SNDA may be executed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument and be binding upon all parties hereto as if all had signed but one counterpart.

**[Space Below Intentionally Left Blank –
Signature Pages to Follow]**

IN WITNESS WHEREOF, this SNDA has been duly executed by the parties hereto as of the date first set forth above.

LESSEE:

SAM'S REAL ESTATE BUSINESS TRUST, a Delaware statutory trust

CRT By *J. Chris Callaway*
J. Chris Callaway
Vice President—Real Estate

STATE OF ARKANSAS)
) SS.
COUNTY OF BENTON)

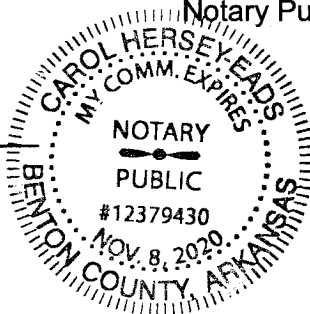
The forgoing instrument was acknowledged before me on this 27 day of September, 2013 by J. Chris Callaway, Vice President—Real Estate of Sam's Real Estate Business Trust, a Delaware statutory trust, on behalf of the trust.

[SEAL]

Carol Hersey-Eads
Notary Public

My Commission Expires:

Nov 8, 2020



IN WITNESS WHEREOF, this SNDA has been duly executed by the parties hereto as of the date first set forth above.

LESSOR

Papillion Development Settlers Creek LLC, a Nebraska limited liability company

By: RED Papillion Settler's Creek, LLC
a Missouri limited liability company, its Manager

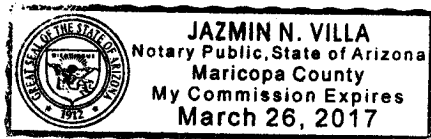
By: RED Consolidated Holdings, LLC,
a Delaware limited liability company, its
Sole Member

By:
Michael L. Ebert, Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The forgoing instrument was acknowledged before me this 29 day of AUGUST, 2013 by Michael L. Ebert, Vice President of RED Consolidated Holdings, LLC, a Delaware limited liability company, Sole Member of RED Papillion Settlers Creek, LLC, a Missouri limited liability company, Manager of Papillion Development Settlers Creek, LLC, a Nebraska limited liability company, on behalf of such limited liability company.


Jazmin N. Villa
Notary Public



IN WITNESS WHEREOF, this SNDA has been duly executed by the parties hereto as of the date first set forth above.

MORTGAGEE:

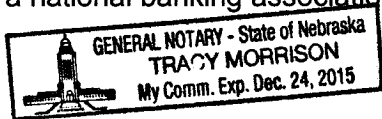
FIRST NATIONAL BANK OF OMAHA, a national banking association


By 
Michael J. Kuester
Senior Vice President

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

The forgoing instrument was acknowledged before me on this 30 day of AUGUST, 2013 by Michael J. Kuester, Senior Vice President of First National Bank of Omaha, a national banking association, on behalf of the bank.

[SEAL]




Notary Public

My Commission Expires:

12-24-15

EXHIBIT A

LEGAL DESCRIPTION OF THE MORTGAGE 1 INSTRUMENTS PREMISES

Outlot A, Settler's Creek Replat 2, a subdivision in Sarpy County, Nebraska,
together with,

Lots 1 through 6, inclusive, and Outlot A, Settler's Creek Replat 3,^{*} a subdivision in Sarpy County, Nebraska, **NOW KNOWN AS LOTS 1 THROUGH 6, INCLUSIVE, AND OUTLOT A, SETTLER'S CREEK REPLAT 4*
together with,

Access and parking easements as set forth in the Declaration of Reciprocal Easements, Covenants and Restrictions filed August 14, 2008 at Instrument No. 2008-23219, records of Sarpy County, Nebraska.

EXHIBIT B

LEGAL DESCRIPTION OF MORTGAGE 2 INSTRUMENTS PREMISES

Lots 1 and 2 Settler's Creek Replat 6, a subdivision in Sarpy County, Nebraska, along with Access and Parking Easements as set forth in the Declaration of Reciprocal Easements, Covenants and Restrictions filed August 14, 2008 at Instrument No. 2008-23219, records of Sarpy County, Nebraska.

Formerly known as:

Lot 1, Settler's Creek Replat 3, a subdivision in Sarpy County, Nebraska, along with Access and Parking Easements as set forth in the Declaration of Reciprocal Easements, Covenants and Restrictions filed August 14, 2008 at Instrument No. 2008-23219, records of Sarpy County, Nebraska.