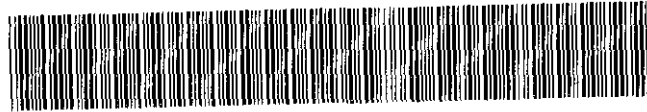


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Filed: AS RECEIVED

Received - DIANE L. BATTIATO

Register of Deeds, Douglas County, NE

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**EXHIBIT E**  
**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

THIS AGREEMENT, made this 29<sup>th</sup> day of March 2006, by and between Aldi Inc. (Kansas) whose address is 10505 South K7 Highway, Olathe, Kansas 66061 ("**Tenant**"), Thrivent Financial for Lutherans whose address is 625 Fourth Avenue S., Minneapolis, MN 55415 ("**Lender**"), and Gordman 133<sup>rd</sup> & Arbor, LLC whose address is 444 Regency Pkwy Dr. Suite 202 ("**Landlord**").  
Omaha ne 68114

**WITNESSETH:**

WHEREAS, Tenant and Landlord have entered into a certain lease dated 3/27/06, as assigned, modified, supplemented or amended by certain documents (collectively, the "**Lease**") covering premises located at 2502 S. 133rd Plaza (the "**Premises**"), and as more specifically set forth in the Lease; and Omaha, ne

WHEREAS, Lender has made or has agreed to make a mortgage loan in the original principal amount of \$3,000,000 (the "**Loan**") to Landlord evidenced by a promissory note secured by, among other security, a certain Mortgage/Deed of Trust/Deed to Secure Debt and Security Agreement (the "**Mortgage**") on Landlord's property ; and

WHEREAS, the Mortgage, and any other documents or instruments evidencing or securing the Loan are hereinafter collectively referred to as the "**Loan Documents**"; and

WHEREAS, Lender has been requested by Tenant and by Landlord to enter into a non-disturbance agreement with Tenant;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, Lender, Tenant and Landlord hereby agree and covenant as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and Tenant's interest in the Premises under the Lease, are and shall at all times be subject, subordinate, and inferior to the lien of the Loan Documents and to the lien of all renewals, modifications and extensions thereof, subject to the terms and conditions set forth in this Agreement.

2. Notwithstanding such subordination, so long as Tenant is not in default (beyond any applicable cure period) in the payment of fixed rent as set forth in the Lease, or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, and if the interests of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or

other proceedings brought by it, or by deed in lieu of foreclosure, or if Lender takes possession of the Premises pursuant to any provisions of the Loan Documents, then Tenant's possession of the Premises and Tenant's rights and privileges under the Lease, or any extensions or renewals thereof, shall not be diminished or interfered with by Lender, and Tenant's occupancy of the Premises shall not be disturbed by Lender for any reason whatsoever during the term of the Lease or any such extension or renewal thereof, except as would be permitted for Landlord to do so.

3. In addition, notwithstanding such subordination, so long as Tenant is not in default (beyond any applicable cure period) in the payment of rent or additional rent, or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Lender will not join Tenant as a party defendant, unless required by law, in any foreclosure action or other proceeding for the purpose of terminating Tenant's interest and estate under the Lease or for any other purpose.

4. If the interests of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or by deed in lieu of foreclosure, or if Lender takes possession of the Premises pursuant to any provisions of the Loan Documents, then: (i) Lender and Tenant shall be directly bound to each other under all the terms, covenants and conditions of the Lease for the balance of the term thereof and for any extensions or renewals thereof which may be exercised by Tenant, with the same force and effect as if Lender were the Landlord under the Lease; and (ii) Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative (without the execution of any further instruments) immediately upon Lender's succeeding to the interests of Landlord under the Lease; provided, however, regarding items (i) and (ii) above, that Tenant shall have received written notice from Lender that it has succeeded to the interests of Landlord under the Lease. The respective rights and obligations of Tenant and Lender upon such attornment shall be and are the same as now set forth in the Lease, from and after Lender's succession to the interests of Landlord under the Lease; provided, however, that Lender shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord); or

(b) subject to any defenses which Tenant might have against any prior landlord (including Landlord) prior to the date that Lender first takes possession of the premises; or

(c) bound by any rent which Tenant might have paid for more than the current month; or

(d) bound by any security deposit which Tenant may have paid to any prior landlord (including Landlord), unless such deposit is in an escrow

or other fund available to Lender; or

(e) bound by any amendment or modification or waiver of any provision of the Lease made without the consent of Lender, which would reduce the lease term, rents payable, or square footage.

5. Tenant shall not be under any obligation to pay rent to Lender until Tenant shall have received written notice from Lender that Lender has succeeded to the interests of Landlord under the Lease or that Lender has exercised its rights under the Loan Documents, and directing such payments be made to Lender. Landlord by its execution of this Agreement hereby consents to such direct payments made by Tenant to Lender and hereby releases and discharges Tenant of and from all liability to Landlord on account of any such payments. Upon receipt of such notice, Tenant shall make future payments due under the Lease to Lender until notified otherwise in writing in accordance with the terms of the Lease and Tenant shall not be liable to Landlord to account for such payments.

6. Tenant shall notify Lender in writing at the address set forth herein of the occurrence of any default or event of default by Landlord under the Lease which would give Tenant the right to cancel or terminate the Lease; and Tenant will grant to Lender 30 days in addition to the period of time granted to Landlord by the Lease in which to cure Landlord's default, on the condition that Lender shall give Tenant written notice of Lender's intent to cure Landlord's default within 10 business days of receipt of Tenant's notice of Landlord's default. Tenant agrees that it will not terminate or cancel the Lease on account of such default until such notice to Lender has been given, and Lender has had the opportunity to cure any such default. Should Lender fail to so notify Tenant of Lender's intent to cure Landlord's default within said 10 business days, then Tenant shall have all available rights and remedies (including the right to cure Landlord's default) under the Lease, at law and/or in equity. It is expressly understood and agreed that the above shall not be deemed to create any obligation of Lender to cure any such default or defaults.

7. This Agreement may not be modified or amended, except by writing by all parties hereto. Upon satisfaction of the Mortgage, this Agreement shall become null and void and be of no further effect.

8. Whenever in this Agreement it is provided that notice be given to or served upon any of the parties, each such notice or demand shall be in writing, and any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows: If given or served by the Lender, by mailing the same to the Tenant and Landlord by registered or certified mail, return receipt requested, or by overnight courier service provided a receipt is required, at the addresses listed on Page 1 of this Agreement, or at such other addresses as the Tenant and Landlord may from time to time designate by notice given to the Lender; and if given or served by the Tenant, by mailing the same to the Lender and Landlord by registered or certified mail, return receipt

requested, or by overnight courier service provided a receipt is required, addressed to the Lender and Landlord at the addresses listed on Page 1 of this Agreement, or at such other addresses as the Lender and Landlord may from time to time designate by written notice given to Tenant; and if given or served by Landlord, by mailing the same to Tenant and Lender by registered or certified mail, return receipt requested, or by overnight courier service provided a receipt is required, addressed to the Tenant and Lender at the addresses listed on Page 1 of this Agreement, or such other addresses as the Tenant and Lender may from time to time designate by written notice given to Landlord.

9. Notwithstanding any of the provisions of the Mortgage to the contrary, Lender hereby agrees that, so long as no default (as defined in the Lease) has occurred and is continuing under the Lease, Lender agrees that all insurance and condemnation proceeds shall be applied in accordance with the provisions of the Lease.

10. Anything herein or in the Lease to the contrary notwithstanding, in the event that Lender shall acquire title to the Premises, or shall otherwise become liable for any obligations of Landlord under the Lease, Lender shall have no obligations, nor incur any liability, beyond Lender's then interest, if any, in the Premises and the Lease, and Tenant shall look exclusively to such interest of Lender, if any, in the Premises and the Lease, for the payment and discharge of any obligations imposed upon Lender hereunder or under the Lease. Tenant agrees that with respect to any money judgment which may be obtained or secured by Tenant against Lender, Tenant shall look solely to the estate or interest owned by Lender in the Premises, and Tenant will not collect or attempt to collect any such judgment out of any other assets of Lender.

11. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. In addition, this Agreement shall be binding upon any successor to Lender's interest as Landlord of the Lease.

Lot 5, Old Orchard West, an addition to the  
City of Omaha, as surveyed, platted and  
recorded, in Douglas County, Nebraska.



STATE OF MINNESOTA )  
 ) ss:  
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of March, 2006, by Paul R. Binder of Thrivent Financial for Lutherans, an Assistant Vice President on behalf of said corporation

  
Notary Public



\*\* FILED: AS IS

STATE OF Nebraska )  
 ) ss:  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of March, 2006, by Cerone P. Goodman of Gordman 133<sup>rd</sup> & Arbor, a Nebraska limited liability company on behalf of said company.

  
Notary Public

