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RICHARD N. TAKECHI  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

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

This Subordination, Non-Disturbance and Attornment Agreement (this "Agreement") dated this 10<sup>th</sup> of December, 1999, is made among U Save Foods, Inc., a Nebraska corporation, formerly known as Sixth Street Food Stores, Inc., a Nebraska corporation, d/b/a U Save Foods ("Tenant"), West Bay, Inc., a Nebraska corporation ("Landlord"), and Great Western Bank ("Mortgagee").

**WHEREAS**, Landlord and Tenant have entered into a Shopping Center Lease dated January 15, 1999, as amended by a First Amendment to Shopping Center Lease dated as of March 1, 1999, a Second Amendment to Shopping Center Lease dated as of March 15, 1999, a Third Amendment to Shopping Center Lease dated as of April 1, 1999, and a Fourth Amendment to Shopping Center Lease dated as of November 8, 1999 (the "Lease") with respect to certain real property (as defined therein, the "Premises"). The Premises are part of the real property described on Exhibit "A" to this Agreement (the "Property"). Lender has agreed to make two loans in the principal face amount of \$9,000,000.00 and \$2,515,000.00, respectively (the "Loans"), to Landlord and to accept mortgages or deeds of trust (the "Mortgage") as security for the Loans. However, as a condition to making the Loans, Lender has required a subordination of the Lease to the Mortgage. Tenant is willing to subordinate the Lease to the Mortgage so long as Tenant is assured that its possession of the Premises will not be disturbed; and

**WHEREAS**, the term "Landlord" as used herein means the present landlord under the Lease or, if the landlord's interest is transferred in any manner, the successor(s) or assign(s) occupying the position of landlord under the Lease at the time in question;

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

1. Subordination. Tenant agrees and covenants that the Lease and the rights of Tenant thereunder, all of Tenant's right, title and interest in and to the property covered by the Lease, and any lease thereafter executed by Tenant covering any part of the Property, are and shall be subordinate and inferior to (a) the Mortgage and the rights of Mortgagee thereunder, and all right, title and interest of Mortgagee in the Property, and (b) all other security documents now or

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hereafter securing payment of any indebtedness of the Landlord (or any prior landlord) to Mortgagee which cover or affect the Property. This Agreement is not intended and shall not be construed to subordinate the Lease to any mortgage, deed of trust or other security document other than those referred to in the preceding sentence, securing the indebtedness to Mortgagee. The subordination granted herein shall continue, and shall not be affected by any extension, modification, or renewal of any indebtedness that is secured by the Mortgage, or by any other security documents.

2. Non-Disturbance. Mortgagee agrees that so long as the Lease is in full force and effect and Tenant is not in default in the payment of rent, minimum rent, percentage rental or other payments or in the performance of any of the other terms, covenants or conditions of the Lease on Tenant's part to be performed (beyond the period, if any, specified in the Lease within which Tenant may cure such default),

(a) Tenant's possession of the Premises under the Lease shall not be disturbed or interfered with by Mortgagee in the exercise of any of its rights under the Mortgage including any foreclosure or conveyance in lieu of foreclosure, and

(b) Mortgagee will not join Tenant as a party Defendant for the purpose of terminating Tenant's interest and estate under the Lease in any proceeding for foreclosure of the Mortgage.

3. Attornment.

(a) Tenant covenants and agrees that in the event of foreclosure of the Mortgage whether by power of sale or by court action, or upon a transfer of the Property by conveyance in lieu of foreclosure (the purchaser at foreclosure or the transferee in lieu of foreclosure including Mortgagee if it is such purchaser or transferee, being herein called "New Owner") Tenant shall attorn to the New Owner as Tenant's new landlord, and agrees that the Lease shall continue in full force and effect as a direct lease between Tenant and New Owner upon all of the terms, covenants, conditions and agreements set forth in the Lease and this Agreement; provided however, that in no event shall the New Owner be:

(i) liable for any act, omission, default, misrepresentation, or breach of warranty, of any previous landlord (including Landlord) or obligations accruing prior to New Owner's actual ownership of the property, except for acts, omissions, defaults misrepresentations or breaches of warranty which are of a continuing nature and, therefore continue on or after the date New Owner comes into possession of or acquires absolute title to the Premises;

(ii) subject to any offset, defense, claim or counterclaim which Tenant might be entitled to assert against any previous landlord (including Landlord), except for any offset, defense, claim or counterclaim related to a matter for which New Owner has responsibility as described in paragraph 3(a)(i) hereof;

(iii) bound by any payment of rent, minimum rent, percentage rental or other payments, made by Tenant to any previous landlord (including Landlord) for more than one (1) month in advance;

(iv) bound by any amendment, or modification of the Lease hereafter made, or consent by any previous landlord (including Landlord) under the Lease to any assignment or sublease hereafter granted, without the written consent of Mortgagee; or

(v) liable for any deposit that Tenant may have given to any previous landlord (including Landlord) which has not, as such, been transferred to New Owner.

(b) The provisions of this Agreement regarding attornment by Tenant shall be self-operative and effective without the necessity of execution of any new lease or other document on the part of any party hereto or the respective heirs, legal representatives successors or assigns of any such party.

4. Estoppel Certificate. Tenant agrees to execute and deliver, within 30 days after written request from Landlord or of any holder(s) of any of the indebtedness or other obligations secured by the Mortgage (but not more often than twice in any 12 month period), a certificate regarding the status of the Lease, consisting of statements, if true (or if not, specifying why not), (a) that the Lease is in full force and effect, (b) the date through which rentals have been paid, (c) the date of the commencement of the term of the Lease, (d) the nature of any amendments or modifications of the Lease, (e) that no default, or state of facts which with the passage of time or notice (or both) would constitute a default, exists under the Lease, and (f) such other matters as may be reasonably requested.

5. Acknowledgment and Agreement by Tenant. Tenant acknowledges and agrees as follows:

(a) Tenant acknowledges that Landlord will execute and deliver to Mortgagee in connection with the financing of the Property an assignment of leases and rents assigning absolutely the rent and all other sums due under the Lease. Tenant hereby expressly consents to such absolute assignment and agrees that such assignments shall, in all respects, be superior to any interest Tenant has in the Lease, subject to the provisions of this Agreement.

(b) Mortgagee, in making any disbursements to Landlord, is 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) This Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement from Mortgagee (including, without limitation, the requirements of Section 24 of the Lease).

6. No Default. Landlord and Tenant certify to Mortgagee that neither Landlord nor Tenant has knowledge of any default on the part of the other under the Lease, that the Lease is bona fide, and that the Lease contains all of the agreements of the parties thereto with respect to the letting of the Premises and that all of the agreements and provisions therein contained are in full force and effect.

7. Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder shall be in writing and shall be deemed sufficiently given or furnished if delivered by personal delivery, by telegram, telex, or facsimile, by expedited delivery service with proof of delivery, or by registered or certified United States mail, postage prepaid, at the addresses specified at the end of this Agreement (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of telegram, telex or facsimile, upon receipt. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt. This Section 7 shall not be construed in any way to affect or impair any waiver of notice or demand provided in this Agreement or in the lease or in any document evidencing, securing or pertaining to the loan evidenced by the Note or to require giving of notice or demand to or upon any person in any situation or for any reason.

8. Miscellaneous.

(a) Nothing contained in this Agreement shall be construed to derogate from, or in any way impair or affect the lien, security interest or provisions of the Mortgage.

(b) This Agreement shall inure to the benefit of the parties hereto, their respective successors and permitted assigns, and any New Owner, and its heirs, personal representatives, successors and assigns.

(c) THIS AGREEMENT AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEBRASKA AND APPLICABLE UNITED STATES FEDERAL LAW.

(d) The words "herein", "hereof", "hereunder" and other similar compounds of the word "here" as used in this Agreement refer to this entire Agreement and not to any particular section or provision.

(e) This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

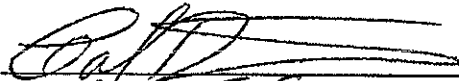
(f) If any provision of the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not apply to or affect any other provision hereof, but this Agreement shall be construed as if such invalidity, illegality, or unenforceability did not exist.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ADDRESS OF MORTGAGEE:

MORTGAGEE:

GREAT WESTERN BANK,

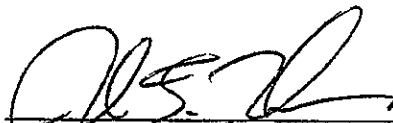
By:   
Name: Paul T. Friesen  
Title: VP.

ADDRESS OF TENANT:

TENANT:

U Save Foods, Inc.  
14301 FNB Parkway  
Suite 206  
Omaha, Nebraska 68154  
Attn: Mr. John F. Hanson, President

U SAVE FOODS, INC., a Nebraska corporation,  
formerly known as SIXTH STREET FOOD  
STORES, INC., a Nebraska corporation,  
d/b/a U SAVE FOODS,

By:   
Name: John F. Hanson  
Title: President

with a copy to:  
Blackwell Sanders Peper Martin  
13710 FNB Parkway, Suite 200  
Omaha, Nebraska 68154  
Attn: Frederick R. Strasheim, Esq.

ADDRESS OF LANDLORD:

West Bay, Inc.  
11725 Arbor Street, Suite 220  
Omaha, Nebraska 68144  
Attn: Mr. Tom Smith

LANDLORD:

WEST BAY, INC.,

By: [Signature]  
Name: Thomas E. Smith  
Title: President

with a copy to:  
Walsh, Fullenkamp & Doyle  
11440 West Center Road  
Omaha, Nebraska 68144  
Attn: Larry A. Jobeun, Esq.

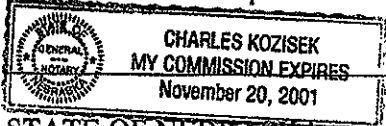
STATE OF NEBRASKA )  
 )ss.  
COUNTY OF DOUGLAS )

On this, the 10 day of December, 1999 before me, a Notary Public in and for said county and state, personally appeared PAUL T. FRIESEN, known to me to be the Vice Pres of GREAT WESTERN BANK, and acknowledged to me that he/she executed the foregoing instrument as his/her voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and official seal.

[Signature: Charles Kozisek]  
Notary Public

My Commission Expires:

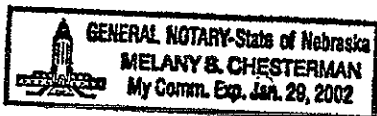


STATE OF NEBRASKA )  
 )ss.  
COUNTY OF DOUGLAS )

On this, the 8<sup>th</sup> day of December, 1999, before me, a Notary Public in and for said county and state, personally appeared **John F. Hanson**, known to me to be the **President of U Save Foods, Inc., formerly known as Sixth Street Food Stores, Inc. D/B/A U Save Foods**, and acknowledged to me that he executed the foregoing instrument as his voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and official seal.

[Signature: Melany S. Chesterman]  
Notary Public



My Commission Expires:

Jan. , 2002

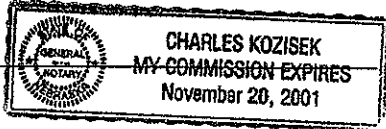
STATE OF NEBRASKA            )  
  )ss.  
COUNTY OF DOUGLAS         )

On this, the 10 day of December, 1999 before me, a Notary Public in and for said county and state, personally appeared **Thomas E. Smith**, known to me to be the **President of West Bay, Inc.** and acknowledged to me that he executed the foregoing instrument as his voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and official seal.

Charles Kozisek  
Notary Public

My Commission Expires:



LOTS 1 THROUGH 13, INCLUSIVE WALNUT GROVE PLAZA, A SUBDIVISION IN DOUGLAS COUNTY,  
NEBRASKA; AND LOT 2, WALNUT GROVE PLAZA REPLAT ONE, A SUBDIVISION IN DOUGLAS  
COUNTY, NEBRASKA