



STATE OF Nebraska §
 COUNTY OF Douglas §

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), made and entered into as of this 1st day of March, 2019, by and between ENTERPRISE BANK, a state chartered bank (the "Lender"), WESTROADS INVESTORS, LLC, a Nebraska limited liability company (the "Landlord") and TOPGOLF USA OMAHA, LLC, a Delaware limited liability company (collectively, the "Tenant").

WITNESSETH:

WHEREAS, Tenant has entered into a certain Lease dated October 20, 2017 as amended by that certain First Amendment to Lease dated November 16, 2017, and as amended by that certain Second Amendment to Lease dated July 31, 2018 and as amended by that certain Third Amendment to Lease dated February 25, 2019 (the "Lease") with Landlord, covering certain premises more particularly described therein (the "Leased Premises");

WHEREAS, Lender is the holder of that certain Deed Of Trust, Security Agreement, Assignment Of Leases And Rents, And Fixture Filing recorded on July 20, 2018 as Instrument No. 2018056892 in the records of Douglas County, Nebraska; and that certain Deed Of Trust, Security Agreement, Assignment Of Leases And Rents, And Fixture Filing recorded on July 20, 2018 as Instrument No. 2018056891 in the records of Douglas County, Nebraska; and that certain Deed Of Trust, Security Agreement, Assignment Of Leases And Rents, And Fixture Filing recorded on July 20, 2018 as Instrument No. 2018056808 in the records of Douglas County, Nebraska, (each individually referred to as a "Mortgage" and collectively as "the Mortgages"), executed, by Landlord for the benefit of Lender, covering the real property and improvements including the Leased Premises (collectively, the "Property"), and legally described on Exhibit A attached hereto;

WHEREAS, Tenant agrees to attorn to Lender and Lender agrees not to disturb Tenant's rights in the Leased Premises for any reason, provided that Tenant is not in default beyond any applicable cure period under the Lease; and

WHEREAS, Lender, Landlord and Tenant are willing to agree on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the recitals set forth above, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the parties hereto agree as follows:

1. Subordination. That the Lease and all rights of Tenant thereunder are subject and subordinate to the Mortgages, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions of any Mortgage. This provision is hereby declared to be self-operative and no further instruments shall be required to effect such subordination.

2. Non-Disturbance. That, provided Tenant is not in default under the terms of the Lease beyond any applicable cure periods:

- (a) Except as otherwise provided in the Lease and to the extent that Tenant is not in default beyond any applicable notice and cure period, Tenant's possession of the Leased Premises and Tenant's rights and privileges under the Lease shall not be terminated, cancelled or in any way disturbed, diminished or interfered with by the Lender during the term of the Lease and any extension or renewal thereof, whether or not the Mortgages are, or any individual Mortgage is, in default and whether or not Lender acquires Landlord's interest in the Lease by foreclosure or deed in lieu of foreclosure, or otherwise;
- (b) Unless applicable law requires Tenant to be made a party thereto as a condition to proceeding against Landlord or pursuing such rights and remedies, Lender shall not join Tenant in any judicial action or proceeding to foreclose the Mortgages or any individual Mortgage, nor join Tenant as a party defendant in any action or proceeding for the purpose of terminating Tenant's interest and estate under the Lease as a result of any default under the Mortgages or under any individual Mortgage, provided that Tenant is not in default beyond any applicable notice and cure period;
- (c) Notwithstanding any such foreclosure or other acquisition of the Leased Premises by Lender or any other party acquiring the Leased Premises upon foreclosure sale, or upon sale in lieu thereof, the Lease shall be recognized as a direct agreement from Lender or any other party acquiring the Leased Premises upon foreclosure sale, or upon sale in lieu thereof, except that Lender, or any subsequent owner, and their respective heirs, personal representatives, successors and assigns, shall not be:

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- (1) obligated to pay monetary damages resulting from any act or omission of any prior landlord, including Landlord, under the Lease;
- (2) liable for the return of any security deposit or prepaid rental paid by Tenant to any prior landlord, including Landlord under the Lease, except to the extent same has been actually delivered to Lender;
- (3) subject to any offsets or defenses which Tenant might have against any prior landlord, including Landlord;
- (4) bound by any modification of the Lease entered into after the date hereof (other than those minor modifications, if any, which are entered into in the ordinary course of business, do not reduce the rental payable by Tenant under the Lease, nor reduce the term of the Lease) or by any previous payment of any sums due to any prior landlord, including Landlord, for a period greater than one (1) month in advance, unless such modification or prepayment shall have been expressly approved in writing by Lender;
- (5) bound by any surrender, cancellation, or termination of the Lease, in whole or in part, agreed upon between Landlord and Tenant unless made with Lender's consent (unless said surrender, cancellation or termination is effected unilaterally by Tenant pursuant to the express terms of the Lease) ;
- (6) liable for any construction obligation of any prior landlord, including Landlord; or
- (7) liable for any breach of representation or warranty of any prior landlord, including Landlord.

Nothing contained in this subparagraph (c) shall waive any right or remedy of Tenant under the Lease with respect to any default by Landlord under the Lease, including, without limitation, Tenant's right to perform Landlord's obligations for Landlord's account and/or to offset any and all amounts owed to Tenant against Rent due and coming due under the Lease, the parties intending that this subparagraph (c) shall only release Lender or any other party acquiring the Leased Premises upon foreclosure sale, or upon sale in lieu thereof, from personal liability for any damages or amounts owed by Landlord to Tenant.

- (d) Lender or any other party (the "Successor") acquiring the Leased Premises upon foreclosure sale, or upon sale in lieu thereof, shall perform the obligations of landlord under the Lease, provided that upon a subsequent sale or other transfer of the Leased Premises to a party who assumes the

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obligations of the Successor, Successor shall be released and relieved of the obligations so assumed under the Lease accruing from and after the date of such subsequent sale or other transfer of the Leased Premises. Tenant acknowledges and agrees that Lender shall not be bound by any modification entered into in violation of this paragraph 2, and in the event of any such violation, Tenant and Lender shall be bound under the Lease, without giving effect to the terms and provisions set forth in any such modification unless agreed otherwise.

- (e) Notwithstanding any provision of the Mortgages, or of any individual Mortgage, to the contrary, all insurance proceeds and/or condemnation proceeds payable with respect to the Leased Premises shall be paid and applied in accordance with the provisions of the Lease.

3. Attornment. Subject to paragraph 2 above, if the interest of Landlord under the Lease shall be transferred by reason of foreclosure or other proceedings for enforcement of the Mortgages or of any individual Mortgage, Tenant shall be bound to Lender or any purchaser at a foreclosure sale, or upon sale in lieu thereof, under all of the terms, covenants and conditions of the Lease for the balance of the term therefor with the same force and effect as if the purchaser were Landlord under the Lease, and Tenant does hereby agree to attorn to such purchaser, as Landlord, under the Lease, said attornment to be effective and self-operative without the execution of any further instruments upon such purchaser succeeding to the interest of Landlord under the Lease accompanied by a copy of the recorded deed or other instrument vesting title in Lender; provided, however, that Tenant shall be under no obligation to pay Rent to Lender until Tenant receives written notice from Lender that it has succeeded to the interests of the Landlord under the Lease. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the term of Lease and any such extensions and renewals, shall be and are the same as now set forth therein; it being the intention of the parties hereto for this purpose to incorporate the Lease into this Agreement by reference with the same force and effect as if set forth at the length of this Agreement.

4. Notice. That any notice which may or is required to be given hereunder or under the Lease shall be in writing and shall be deemed given when deposited, postage prepaid, certified or registered mail, return receipt requested, in the United States mail, or with any nationally recognized overnight courier service, addressed to Lender, Tenant or Landlord, as the case may be, at the addresses set forth after their respective names below, or at such different addresses as they shall have theretofore advised the other in writing in accordance herewith.

If intended for Lender: ENTERPRISE BANK
12800 Center Street
Omaha, Nebraska 68144
Attn: Jeff Eikmeier

With copy to: Scott A. Meyerson
Likes Meyerson Hatch LLC
444 Regency Parkway Dr., #100

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Omaha, NE 68114

If intended for Tenant: Topgolf USA Omaha, LLC
8750 N Central Expressway, Suite 1200
Dallas, Texas 75231
Attn: Legal Department

With copy to: Dentons US LLP
2000 McKinney Avenue, Suite 1900
Dallas, Texas 75201
Attention: Donald A. Hammett, Jr.

If intended for Landlord: c/o Drake Development, LLC
12701 Metcalf Avenue, Suite 100
Overland Park, Kansas 66213
Attn: Matthew Pennington

And to: c/o Woodsonia Westroads, LLC
17007 Marcy Street, Suite 2
Omaha, Nebraska 68118
Attn: Drew Snyder

With copy to: Levy Craig Law Firm, P.C.
4520 Main Street, Suite 1600
Kansas City, Missouri 64111
Attention: Jeffrey Bauer

5. Representation and Warranties of Landlord. Landlord represents and warrants to Tenant that the Mortgages are the only mortgage encumbrances on the Leased Premises and that the interest of Tenant under the Lease is not subordinate to any other mortgage, lien or interest. Landlord and Lender agree that upon receipt of written notice from Lender that Lender has succeeded to the interest of Landlord under the Lease, that Tenant may rely on such notice without inquiry and may pay all rental and other charges reserved under the Lease directly to Lender.

6. Rental Payment. Landlord and Lender further agree that any such payments made by Tenant to Lender after notice to Tenant from Lender shall be credited by both Lender and Landlord against Tenant's rental and other obligations under the Lease, regardless of whether Lender had the right to make such demand and regardless of any contrary demands which may be made by Landlord. This Agreement contains the whole agreement between the parties hereto as to the Mortgages and the priority thereof, herein described, and there are no agreements, written or oral, outside or separate from this Agreement, and all prior negotiations, if any, are merged into this Agreement.

7. Amendments. That no modification, amendment, waiver or release or any provision of this Agreement or any right, obligation, claim or cause of action arising hereunder

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shall be valid or binding for any purposes whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.

8. Miscellaneous. That this Agreement shall inure to the benefit of the parties hereto, and their respective successors and assigns; provided, however, the right of assignment of Tenant and its successors and assigns shall be limited by the terms of the Lease. That Tenant agrees that this Agreement satisfies any condition or requirement in the Lease, if any, relating to the granting of a non-disturbance agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement.

9. Governing Law. This Agreement and any claim, controversy or dispute arising under or related to or in connection with this Agreement, the relationship of the parties or the interpretation and enforcement of the rights and duties of the parties shall be governed by the law of the state where the Property is located.


10. No Waiver by Lender or Tenant. Lender or Tenant, as the case may be, shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by the parties. No delay or omission on the part of the parties in exercising any right shall operate as a waiver of such right or any other right. A waiver by either party of a provision of this Agreement shall not prejudice or constitute a waiver of the party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by the parties, nor any course of dealing among Lender, Landlord, and Tenant shall constitute a waiver of any of the party's rights or of any of Landlord's and/or Tenant's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the reasonable discretion of Lender.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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


LENDER:

ENTERPRISE BANK

By: 
Name: Jeff Eikmeier
Title: SVP

TENANT:

TOPGOLF USA OMAHA, LLC
a Delaware limited liability company

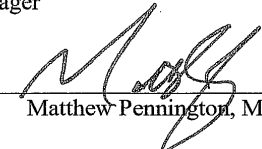
By: 
Name: Eldridge Burns
Title: Manager

LANDLORD:

WESTROADS INVESTORS, LLC,
a Kansas limited liability company

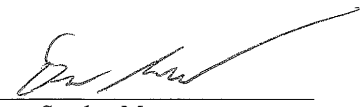
By: DRAKE WESTROADS, LLC,
A Kansas limited liability company
Its: Co-Manager

By: OMAHA INVESTORS, LLC,
A Kansas limited liability company
Its: Manager

By: 
Matthew Pennington, Manager

By: WOODSONIA 730-908 N. 102ND, LLC,
a Nebraska limited liability company
Its: Co-Manager

By: DREW SNYDER REAL ESTATE, LLC, a
Kansas limited liability company
Its: Manager

By: 
Drew Snyder, Manager

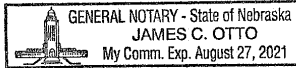
LENDER ACKNOWLEDGMENT

STATE OF Nebraska §

COUNTY OF Douglas §

BEFORE ME personally appeared Jeff Eikmeier, the SVP of ENTERPRISE BANK, known to me to be the person described therein and who executed the foregoing instrument on behalf of said national association, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 1st day of March, 2019.



[Signature]
NOTARY PUBLIC

My Commission Expires:

(NOTARIAL SEAL)

TOPGOLF ACKNOWLEDGMENT

STATE OF TEXAS §

COUNTY OF DALLAS §

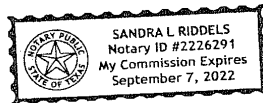
BEFORE ME personally appeared Eldridge Burns, the Manager of TOPGOLF USA OMAHA, LLC, a Delaware limited liability company, known to me to be the person described therein and who executed the foregoing instrument on behalf of said company, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 26th day of February, 2019.

Sandra L. Riddels
NOTARY PUBLIC

My Commission Expires: 9-7-2022

(NOTARIAL SEAL)



LANDLORD ACKNOWLEDGMENT

STATE OF Kansas §

COUNTY OF Johnson §

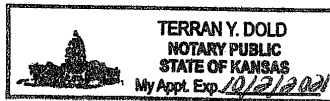
BEFORE ME personally appeared Matthew Pennington, the Manager of Omaha Investors, LLC, a Kansas limited liability company, the Manager of Drake Westroads, LLC, a Kansas limited liability company, the Co-Manager of Westroads Investors, LLC, a Nebraska limited liability company, known to me to be the person described therein and who executed the foregoing instrument on behalf of said company, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 8th day of February, 2019.

Terran Y. Dold
NOTARY PUBLIC

My Commission Expires: 10/2/2021

(NOTARIAL SEAL)



LANDLORD ACKNOWLEDGMENT

STATE OF Nebraska §

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BEFORE ME personally appeared Drew Snyder, the Manager of Drew Snyder Real Estate, LLC, a Kansas limited liability company, the Manager of Woodsonia 730-908 N. 102ND, LLC, a Nebraska limited liability company, the Co-Manager of Westroads Investors, LLC, a Nebraska limited liability company, known to me to be the person described therein and who executed the foregoing instrument on behalf of said company, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 5 day of February, 2019.

Sandra S. Hollingsworth
NOTARY PUBLIC

My Commission Expires: 6-14-21

(NOTARIAL SEAL)

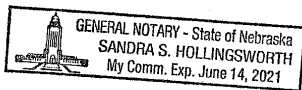


Exhibit A

Legal Description of Leased Premises

THAT PART OF LOT 1, PUTT'N PLACE, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1;
THENCE WEST (ASSUMED BEARING) 51.51 FEET ON THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING;
THENCE CONTINUING WEST 868.51 FEET ON THE NORTH LINE OF SAID LOT 1 TO THE NORTHWEST CORNER THEREOF;
THENCE S05°39'19"E 376.00 FEET ON THE WEST LINE OF SAID LOT 1;
THENCE SOUTHEASTERLY ON THE WEST LINE OF SAID LOT 1 ON A 1025.92 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S19°18'30"E, CHORD DISTANCE 201.14 FEET AN ARC DISTANCE OF 201.46 FEET;
THENCE EASTERLY ON THE SOUTH LINES OF SAID LOT 1 ON THE FOLLOWING DESCRIBED EIGHT COURSES;
THENCE EAST 244.80 FEET;
THENCE SOUTH 180.00 FEET;
THENCE EAST 155.00 FEET;
THENCE NORTH 334.89 FEET;
THENCE NORTHEASTERLY ON A 746.96 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N77°21'33"E, CHORD DISTANCE 106.27 FEET, AN ARC DISTANCE OF 106.36 FEET;
THENCE N73°16'48"E 100.79 FEET;
THENCE NORTHEASTERLY ON A 375.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING N81°38'24"E, CHORD DISTANCE 109.04 FEET, AN ARC DISTANCE OF 109.43 FEET;
THENCE EAST 65.89 FEET TO A POINT 54.00 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 1;
THENCE NORTH 277.61 FEET;
THENCE NORTHWESTERLY ON A 231.50 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N07°56'45"W, CHORD DISTANCE 64.00 FEET AN ARC DISTANCE OF 64.21 FEET TO THE POINT OF BEGINNING.

CONTAINING 427,670 SQUARE FEET MORE OR LESS.