


**RECORDING REQUESTED BY AND
AFTER RECORDING, RETURN TO:**

Polsinelli PC
900 Third Avenue
New York, New York
10022 Attn: John F.
Bricker, Esq.


20151028000376300 1/10 \$41.00
Shelby Cnty Judge of Probate, AL
10/28/2015 01:15:04 PM FILED/CERT

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

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

This Subordination, Non-Disturbance and Attornment Agreement ("**Agreement**"), is made as of this 15th day of October, 2015 among BARCLAYS BANK PLC, a public company registered in England and Wales (together with its successors, assigns and/or affiliates, ("**Lender**"), PC Sweet Home Bama, LLC a Delaware limited liability company. the successor in interest to Propst Alabaster, LLC, an Alabama limited liability company ("**Landlord**"), and Southern Star, LLC, a Louisiana limited liability company ("**Tenant**").

Background

A. Lender has agreed to make a loan to Landlord (such loan may be made by Lender or one of its affiliates which is a designee of Lender) ("**Loan**"), which will be secured by a mortgage, deed of trust or similar security instrument (the "**Security Instrument**") on Landlord's property described more particularly on Exhibit A attached hereto ("**Property**").

B. Tenant is the present lessee under that certain lease agreement between Landlord and Tenant dated [6/2/2004], as thereafter modified and supplemented ("**Lease**"), demising a portion of the Property described more particularly in the Lease ("**Leased Space**").

C. A requirement of the Loan is that Tenant's Lease be subordinated to the Security Instrument. Landlord has requested Tenant to so subordinate the Lease in exchange for Lender's agreement not to disturb Tenant's possession of the Leased Space upon the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises of this Agreement, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Subordination. Tenant agrees that the Lease and all of the terms, covenants and provisions thereof, and all estates, options and rights created under the Lease, hereby are subordinated and made subject to the lien and effect of the Security Instrument (including, without limitation, all renewals, increases, modifications, spreaders, consolidations, replacements and extensions thereof), as if the Security Instrument had been executed and recorded prior to the Lease.

2. Nondisturbance. Lender agrees that no foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or other sale of the Property in connection with enforcement of the Security Instrument or otherwise in satisfaction of the Loan shall operate to terminate the Lease or Tenant's rights thereunder to possess and use the Leased Space provided, however, that (a) the term of the Lease has commenced, (b) Tenant is in possession of the Leased Space, and (c) the Lease is in full force and effect and no uncured default by Tenant exists (i.e. a default beyond any grace or curative periods afforded Tenant) under the Lease.

3. Attornment. Tenant agrees to attorn to and recognize as its landlord under the Lease each party acquiring legal title to the Property by foreclosure (whether judicial or nonjudicial) of the Security Instrument, deed-in-lieu of foreclosure, or other sale in connection with enforcement of the Security Instrument or otherwise in satisfaction of the Loan ("**Successor Owner**"). Provided that the conditions set forth in Section 2 above are met at the time Successor Owner becomes owner of the Property, Successor Owner shall perform all obligations of the landlord under the Lease arising from and after the date title to the Property is transferred to Successor Owner. In no event, however, will any Successor Owner be: (a) liable for any default, act or omission of any prior landlord under the Lease, except if Tenant has provided Lender with prior written notice of the same prior to the date title to the Property is transferred to Lender, and provided, however, that Lender, as Successor Owner, shall only be liable for such defaults, acts or omissions of any prior landlord to the extent of Successor Owner's equity interest in the Property; (b) subject to any offset or defense which Tenant may have against any prior landlord under the Lease, except if Tenant has provided Lender with prior written notice of the same prior to the date title to the Property is transferred to Lender, and provided, however, that Lender, as Successor Owner, shall only be liable for such offset or defense against any prior landlord to the extent of Successor Owner's equity interest in the Property; (c) bound by any payment of rent or additional rent made by Tenant to Landlord more than 30 days in advance; (d) bound by any material modification or supplement to the Lease or material waiver of Lease terms (e.g. related to a reduction in rent, the term of the Lease or the size of the Leased Premises), made without Lender's written consent thereto; (e) liable for the return of any security deposit or other prepaid charge paid by Tenant under the Lease, except to the extent such amounts were actually received by Lender; (f) liable or bound by any right of first refusal or option to purchase all or any portion of the Property; or (g) liable for construction or completion of any improvements to the Property or as required under the Lease for Tenant's use and occupancy (whenever arising). Although the foregoing provisions of this Agreement are self-operative, Tenant agrees to execute and deliver to Lender or any Successor Owner such further instruments as Lender or a Successor Owner may from time to time request in order to confirm this Agreement. If any liability of Successor Owner does arise pursuant to this Agreement, such liability shall be limited to Successor Owner's interest in the Property.

4. Prior Assignment: Rent Payments; Notice to Tenant Regarding Rent Payments. Tenant has no knowledge of any prior assignment or pledge of the rents accruing under the Lease by Landlord, except in connection with previous financings of Landlord. Tenant hereby consents to that certain Assignment of Leases and Rents from Landlord to Lender executed in connection with the Loan. Tenant acknowledges that the interest of the Landlord under the Lease is to be assigned to Lender solely as security for the purposes specified in said assignment, and Lender shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, unless Lender shall specifically undertake such liability in writing. Tenant agrees not to pay rent more than one (1) month in advance unless otherwise specified in the Lease. After notice is given to Tenant by Lender that Landlord is in default under the Security Instrument and that the rentals under the Lease are to be paid to Lender directly pursuant to the assignment of leases and

rents granted by Landlord to Lender in connection therewith, Tenant shall, subject to all applicable law, thereafter pay to Lender all rent and all other amounts due or to become due to Landlord under the Lease. Landlord hereby expressly authorizes Tenant to make such payments to Lender upon reliance on Lender's written notice (without any inquiry into the factual basis for such notice or any prior notice to or consent from Landlord) and hereby releases Tenant from all liability to Landlord in connection with Tenant's compliance with Lender's written instructions.

5. Lender Opportunity to Cure Landlord Defaults. Tenant agrees that, until the Security Instrument is released by Lender, it will not exercise any remedies, except in case of emergencies, under the Lease following a Landlord default without having first given to Lender (a) written notice of the alleged Landlord default and (b) the opportunity to cure such default within (i) a period of 5 business days following such notice in the instance of a default which may be cured by the payment of money or (ii) a period of 30 days after receipt of such notice in the instance of a default other than one listed in the preceding clause (i), if such default cannot reasonably be cured within such 30-day period and Lender has diligently commenced to cure such default promptly within the time contemplated by this Agreement, such 30-day period shall be extended for so long as it shall require Lender, in the exercise of due diligence, to cure such default, but, unless the parties otherwise agree, in no event shall the entire cure period be more than 120 days. Tenant acknowledges that Lender is not obligated to cure any Landlord default, but if Lender elects to do so, Tenant agrees to accept cure by Lender as that of Landlord under the Lease and will not exercise any right or remedy under the Lease for a Landlord default. Performance rendered by Lender on Landlord's behalf is without prejudice to Lender's rights against Landlord under the Security Instrument or any other documents executed by Landlord in favor of Lender in connection with the Loan.

6. Right to Purchase. Tenant covenants and acknowledges that it has no right or option of any nature whatsoever, whether pursuant to the Lease or otherwise, to purchase the Property or the real property of which the Property is a part, or any portion thereof or any interest therein and to the extent that Tenant has had, or hereafter acquires any such right or option, the same is hereby acknowledged to be subject and subordinate to the Security Instrument and is hereby waived and released as against Lender.

7. Miscellaneous.

(a) Notices. All notices and other communications under this Agreement are to be in writing and addressed as set forth below such party's signature hereto. Default or demand notices required to be delivered pursuant to this Agreement or such other agreements between Lender and Tenant shall be deemed to have been duly given upon the earlier of: (i) actual receipt; (ii) one (1) business day after having been timely deposited for overnight delivery, fee prepaid, with a reputable overnight courier service, having a reliable tracking system; (iii) one (1) business day after having been sent by telecopier (with answer back acknowledged) provided an additional notice is given pursuant to (ii); or (iv) three (3) business days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by certified mail, postage prepaid, return receipt requested, and in the case of clause (ii) and (iv) irrespective of whether delivery is accepted. A new address for notice may be established by written notice to the other parties; provided, however, that no address change will be effective until written notice thereof actually is received by the party to whom such address change is sent.

(b) Entire Agreement: Modification. This Agreement is the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes and replaces all prior discussions, representations, communications and agreements (oral or

written). This Agreement shall not be modified, supplemented, or terminated, nor any provision hereof waived, except by a written instrument signed by the party against whom enforcement thereof is sought, and then only to the extent expressly set forth in such writing.

(c) Binding Effect; Joint and Several Obligations. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective heirs, executors, legal representatives, successors, and assigns, whether by voluntary action of the parties or by operation of law. No Indemnitor may delegate or transfer its obligations under this Agreement.

(d) Unenforceable Provisions. Any provision of this Agreement which is determined by a court of competent jurisdiction or government body to be invalid, unenforceable or illegal shall be ineffective only to the extent of such determination and shall not affect the validity, enforceability or legality of any other provision, nor shall such determination apply in any circumstance or to any party not controlled by such determination.

(e) Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals, and each duplicate original shall be deemed to be an original. This Agreement (and each duplicate original) also may be executed in any number of counterparts, each of which shall be deemed an original and all of which together constitute a fully executed Agreement even though all signatures do not appear on the same document.


(f) Construction of Certain Terms. Defined terms used in this Agreement may be used interchangeably in singular or plural form, and pronouns shall be construed to cover all genders. Article and section headings are for convenience only and shall not be used in interpretation of this Agreement. The words "herein," "hereof" and -hereunder- and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or other subdivision; and the word "section" refers to the entire section and not to any particular subsection, paragraph of other subdivision; and "Agreement" and each of the Loan Documents referred to herein mean the agreement as originally executed and as hereafter modified, supplemented, extended, consolidated, or restated from time to time.

(g) Governing Law. This Agreement shall be interpreted and enforced according to the laws of the State where the Property is located (without giving effect to its rules governing conflict of laws).

(h) Consent to Jurisdiction. Each party hereto irrevocably consents and submits to the exclusive jurisdiction and venue of any state or federal court sitting in the county and state where the Property is located with respect to any legal action arising with respect to this Agreement and waives all objections which it may have to such jurisdiction and venue.

(i) **WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HERETO WAIVES AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS AGREEMENT.

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IN WITNESS WHEREOF, this Agreement is executed this 7th day of October, 2015.

TENANT:

Southern Star, LLC

A Louisiana limited liability company

By: 
Name: James Wood
Title: CEO

Tenant Notice Address:

Southern Star, LLC

350 Barrone Street, Ste 900

New Orleans, LA 70112

Attn: Beth Price Lafarque

Signatures continue on next page.



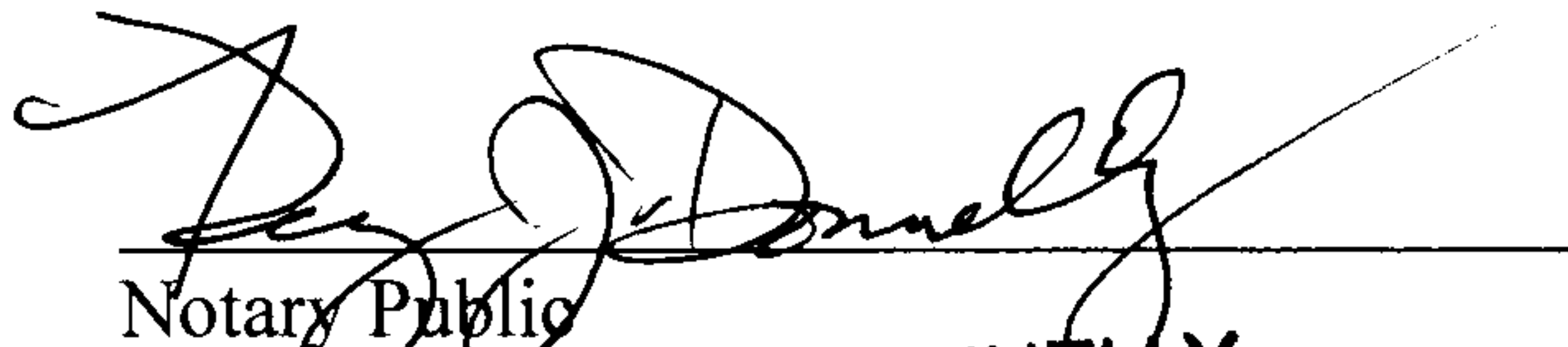
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Notary Acknowledgement for Tenant:

STATE OF LOUISIANA)
) ss.:
COUNTY OF ORLEANS)

On this, the 7th day of October, 2015, before me, the undersigned Notary Public, personally appeared James Wood known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and who acknowledged to me that he/she is an officer of Southern Star, LLC in the capacity stated and that he/she executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Notary Public
REMY JAMES DONNELLY
NOTARY PUBLIC
State of Louisiana
My Commission Is Issued For Life
La. Bar Roll No. 33484
Notary ID No. 132313



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LANDLORD:

PC Sweet Home Bama, LLC
a Delaware limited liability company

By: 

Franklin C. Gatlin, III President

LANDLORD Notice Address:

PC Sweet Home Bama, LLC
1301 Riverplace Blvd.
Suite 1900
Jacksonville, FL 32207

Signatures continue on next page.



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Notary Acknowledgement for Landlord:


STATE OF Florida)
COUNTY OF Duval) ss.:

On this, the 6th day of October, 2015, before me, the undersigned Notary Public, personally appeared Franklin C. Gatlin III known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and who acknowledged to me that he/~~she~~ is an officer of PC Sweet Home Bama LLC in the capacity stated and that he/~~she~~ executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

Amy D. Bugno
Notary Public


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LENDER:

BARCLAYS BANK PLC,
a public Company registered in England and Wales

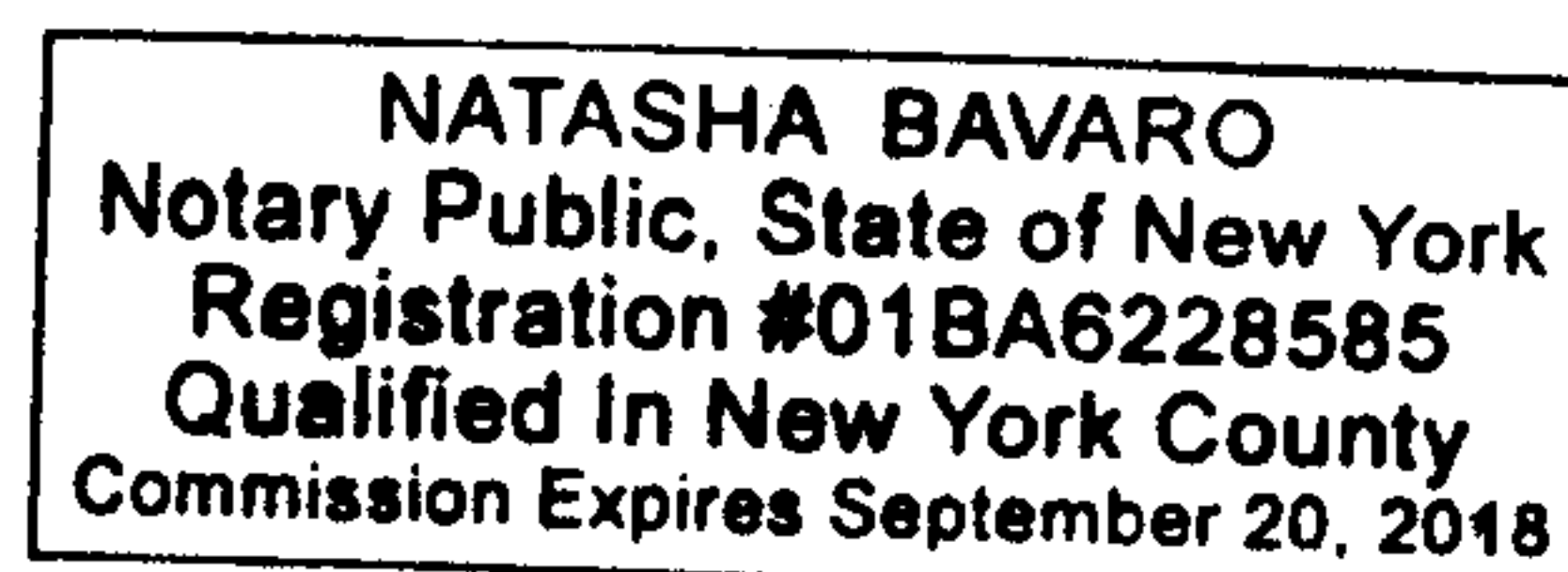
By: 
Name: Michael S. Birajiclian
Title: Authorized Signatory


Address for Notices:
745 Seventh Avenue
New York, New York 10019
Attn: Michael S. Birajiclian

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 16th day of September, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Michael Birajiclian, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in its capacity and that by his signature on the instrument, the individuals, or the persons upon behalf of which the individuals acted, executed the instrument.


Notary Public




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LEGAL DESCRIPTION

Lots 1 and 3, according to the survey of Colonial Promenade, Alabaster Survey, as recorded in Map Book 35, page 102A and 102B, in the Probate Office of Shelby County, Alabama.

Together with rights, title and interest beneficial to the use and ownership of Lots 1 and 3 granted in the following documents:

Easements with covenants and restrictions affecting land as recorded in Instrument 20040507000243250 and First Amendment thereto recorded in Instrument 2004050700043260, in the Probate Office of Shelby County, Alabama.

Declaration of Covenants, Conditions and Restrictions and Operating Agreements as recorded in Instrument 20100916000304710, Instrument 20050705000331870, Instrument 20050627000315620, Instrument 20051031000564260, Instrument 20050923000494710 and Instrument 20050907000460460, in the Probate Office of Shelby County, Alabama.

Detention Facilities Maintenance Agreement as recorded in Instrument 20051013000534440, in the Probate Office of Shelby County, Alabama.

Alabaster Development Agreement as recorded in Instrument 20050712000346700, in the Probate Office of Shelby County, Alabama.

Declaration of Slope, Detention Pond and Construction Easement as recorded in Instrument 20040521000271360, in the Probate Office of Shelby County, Alabama.

