

Orem, UT
650 E 800 South
L/C: 043-0327

Prepared by: Jennifer Cohn
After recorded, return to: Jeanine Jenig
McDonald's Corporation
110 N Carpenter St
Chicago IL 60607

ENT 116225:2022 PG 1 of 8
Andrea Allen
Utah County Recorder
2022 Nov 07 02:43 PM FEE 40.00 BY MC
RECORDED FOR Cottonwood Title Insurance Agency, Inc.
ELECTRONICALLY RECORDED

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement ("**Agreement**") is dated October 26, 2022 between **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association ("**Lender**"), whose address is 1700 Lincoln St, 12th Floor, MAC #C7300-12M, Denver, CO 80203, Attention: Caroline Kackley, Loan No. 1012464, and **McDONALD'S USA, LLC**, a Delaware limited liability company ("**Tenant**"), having its offices at 110 N. Carpenter Street, Chicago, IL 60607-2101, Attention: Director, U.S. Legal, L/C: 043-0327.

PRELIMINARY STATEMENTS

A. Tenant has executed a Ground Lease dated March 31, 2022, as such may from time to time be amended (collectively, the "**Lease**"), with University Mall Shopping Center, L.C., a Utah limited liability company ("**Landlord**"), for the premises described in Exhibit A attached hereto (the "**Premises**").

B. Lender is the holder of indebtedness secured by a lien or liens upon the Premises or a portion of the Premises as set forth in the instrument(s) entitled Deed of Trust with Absolute Assignment of Leases and rents, Security Agreement and Fixture Filing dated July 27, 1999, and recorded as Entry No. 11374:2015, First Modification Agreement Amending Deed of Trust, recorded August 28, 2015 as Entry No. 79330:2015, Modification Agreement Amending Deed of Trust recorded June 22, 2018 as Entry No. 58584:2018, Memorandum of Modification Agreement Amending Security Instrument recorded June 30, 2020 as Entry No. 91488:2020, Memorandum of Third Modification Agreement Amending Security Instrument recorded December 16, 2020 as entry No. 200754:2020, and Consent and Subordination to Construction, Operation and Reciprocal Easement Agreement dated December 9, 2020 and recorded as Entry No. 200755:2020. The instruments creating such lien or liens, whether they be denominated as being a "mortgage," "deed of trust," "deed to secure debt," "security agreement," "vendor's lien," or otherwise, are hereinafter individually and collectively referred to as the "**Mortgage**".

C. Tenant and Lender desire to establish certain rights, safeguards, obligations, and priorities with regard to their respective interests by means of this Agreement.

TERMS OF THE AGREEMENT

In consideration of the mutual covenants of the parties and other good and valuable consideration, Lender and Tenant agree as follows:

ACCOMMODATION RECORDING ONLY.
COTTONWOOD TITLE INSURANCE AGENCY,
INC. MAKES NO REPRESENTATION AS TO
CONDITION OF TITLE, NOR DOES IT ASSUME
ANY RESPONSIBILITY FOR VALIDITY,
SUFFICIENCY OR EFFECTS OF DOCUMENT.

1. Provided the Lease is in full force and effect and Tenant is not in default under the Lease (beyond any period given Tenant to cure the defaults), then:

(a) Notwithstanding any contrary terms in the Mortgage or the note which the Mortgage secures, Tenant's right of possession to the Premises and Tenant's other rights arising out of the Lease will not be affected or disturbed by Lender in the exercise of any of Lender's rights under the Mortgage or the note which the Mortgage secures or otherwise. Further, Tenant will not be named as a party defendant in any foreclosure of the lien of the Mortgage nor in any other way be deprived of Tenant's rights under the Lease.

(b) In the event Lender or any other person acquires title to the Premises pursuant to the exercise of any remedy provided for in the Mortgage, or by conveyance in lieu of foreclosure, the Lease will not be terminated or affected by the foreclosure, conveyance or sale in any such proceeding. Lender covenants that any sale by Lender of the Premises as a result of the exercise of any rights and remedies under the Mortgage, or otherwise, and any sale or transfer of the Mortgage or the note which the Mortgage secures, will be made subject to the Lease and the rights of Tenant under the Lease, and Tenant covenants and agrees to attorn to Lender, or such person, as its new landlord, and the Lease will continue in full force and effect as a direct lease between Tenant and Lender, or such other person, upon all of the terms, covenants, conditions and agreements set forth in the Lease. However, in no event will Lender or such person be:

(i) liable for any act or omission of Landlord arising prior to the date Lender or such other person succeeds to the interest of Landlord, except to the extent such act or omission is of a continuing nature, such as, for example, a repair obligation; or

(ii) bound by any payment of rent or additional rent made by Tenant to Landlord for more than one month in advance unless such pre-paid or additional rent was paid pursuant to the terms of the Lease.

2. Tenant covenants and agrees that, during all such times as Lender is the mortgagee under the Mortgage:

(i) Tenant will not consent to any material modification, termination or cancellation of the Lease (in whole or in part) without Lender's prior written consent and will not make any payment to Landlord in consideration of any modification, termination or cancellation of the Lease (in whole or in part) without Lender's prior written consent. For purposes of this Agreement, "material modification" shall mean any modification of the Lease that decreases rent payable under the Lease, shortens the term of the Lease, modifies landlord obligations under the Lease, or amends the Lease regarding Tenant's termination, offset or abatement rights; and

(ii) Tenant will notify Lender in writing concurrently with any notice given to Landlord of any default by Landlord under the Lease, and Tenant agrees that Lender has the right (but not the obligation) to cure any breach or default specified in such notice within the time periods set forth below and Tenant will not declare a default of the Lease, as to Lender, if Lender cures such default within fifteen (15) days from and after the expiration of the time period provided in the Lease for the cure thereof by Landlord; provided, however, that if such default cannot with diligence be cured by Lender within such fifteen (15) day period, the commencement of action by

Lender within such fifteen (15) day period to remedy the same shall be deemed sufficient so long as Lender pursues such cure with diligence.

3. Lender shall not be liable with respect to any representations, warranties or indemnities from Landlord, whether pursuant to the Lease or otherwise, including, but not limited to, any representation, warranty or indemnity related to the use of the Premises, compliance with zoning, landlord's title, landlord's authority, or hazardous wastes, hazardous substances, toxic materials or similar phraseology relating to the environmental condition of the Premises or any portion thereof.

4. Tenant and Lender hereby agree that Tenant's right of first offer set forth in Section 14 of the Lease shall not apply to (a) any voluntary sale by deed in lieu of foreclosure or any involuntary sale, conveyance or other involuntary transfer of the Premises to Lender, whether pursuant to foreclosure, sheriff's sale, trustee's sale, deed in lieu of foreclosure, or other judicial or non-judicial foreclosure proceedings or (b) any transfer of the Premises from Lender to a third-party purchaser or transferee in the event Lender takes title to the Premises; provided, however, that Tenant's right of first offer set forth in Section 14 of the Lease shall again apply to any third-party purchaser or transferee of the Premises from Lender.

5. In the event Lender acquires title to the Premises pursuant to the exercise of any remedy provided for in the Mortgage Tenant and Lender hereby agree that Lender shall have no obligation to pay or reimburse Tenant for the "Landlord Reimbursement" set forth in the Work Addendum attached to the Lease.

6. All notices under this Agreement will be in writing and sent by United States certified mail return receipt requested or nationally recognized overnight courier. If intended for Lender, the notice will be sent to the address set forth above, and if intended for Tenant, the notice will be sent to the address set forth above. Any party may lodge a change of address by sending notice of such change to the other party in the manner provided under this Section. Each notice will be deemed to have been given at the time it is deposited in the United States mail or with the overnight courier.

7. Subject to the terms of Article 1, the Lease is subject and subordinate to the lien of the Mortgage and to all advances made or to be made and to any renewals or extensions; provided, however, that all renewals and extensions are subject to the terms of this Agreement.

8. The above provisions will be self-operative and effective without the execution of any further instruments on the part of either party. However, Tenant agrees to execute and deliver to Lender or to any person to whom Tenant agrees to attorn such other instruments as either will reasonably request in order to comply with these provisions.

9. This Agreement may not be modified other than by an agreement in writing signed by the parties or by their respective successors in interest.

10. This Agreement will inure to the benefit of and be binding upon the parties and their successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS]

To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this document.

LENDER:
WELLS FARGO BANK, NATIONAL ASSOCIATION
a national banking association

TENANT:
McDONALD'S USA, LLC,
a Delaware limited liability company

By: *Alison M. Gallagher*
Name: *Alison M. Gallagher*
Its: *Director*

By: _____
Name: _____
Its: _____

To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this document.

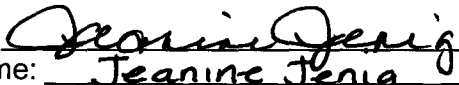
LENDER:
WELLS FARGO BANK, NATIONAL ASSOCIATION
a national banking association

TENANT:
McDONALD'S USA, LLC,
a Delaware limited liability company

By: _____
Name: _____
Its: _____

By: 
Name: Jennifer Cahn
Its: Senior Counsel

ATTESTATION:

By: 
Name: Jeanine Jenig

ACKNOWLEDGMENT – McDONALD'S

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, _____, a Notary Public in and for the county and state set forth above, CERTIFY that _____, as Senior Counsel of McDONALD'S USA, LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such authorized party, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered this instrument as his/her free and voluntary act as such authorized party and as the free and voluntary act of the company for the uses and purposes described in this instrument.

Given under my hand and notarial seal, this _____ day of _____, _____.

Notary Public My commission expires _____.

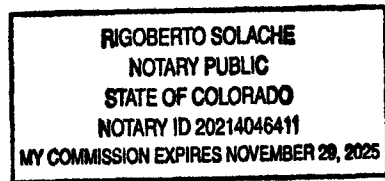
ACKNOWLEDGMENT - LENDER

STATE OF Colorado)
) SS
COUNTY OF Denver)

I, Rigoberto Solache, a Notary Public in and for the county and state aforesaid, CERTIFY that Alison Gallagher, as Director, of WELLS FARGO BANK, a National association, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as such authorized party appeared before me this day in person and acknowledged that he/she signed, sealed and delivered this instrument as his/her free and voluntary act as such authorized party and as the free and voluntary act of the company/corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 24th day of October, 22.

[Signature]
Notary Public My commission expires 11/29/2025.



ACKNOWLEDGMENT – McDONALD'S

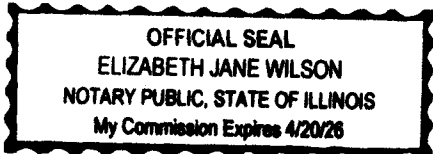
STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, Elizabeth Jane Wilson, a Notary Public in and for the county and state set forth above, CERTIFY that Jennifer Cohn, as Senior Counsel of McDONALD'S USA, LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such authorized party, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered this instrument as his/her free and voluntary act as such authorized party and as the free and voluntary act of the company for the uses and purposes described in this instrument.

Given under my hand and notarial seal, this 26 day of October, 2022

Elizabeth Jane Wilson
Notary Public

My commission expires 4/20/26.



ACKNOWLEDGMENT - LENDER

STATE OF _____)
) SS
COUNTY OF _____)

I, _____, a Notary Public in and for the county and state aforesaid, CERTIFY that _____, as _____, of WELLS FARGO BANK, a National association, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as such authorized party appeared before me this day in person and acknowledged that he/she signed, sealed and delivered this instrument as his/her free and voluntary act as such authorized party and as the free and voluntary act of the company/corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____ day of _____, _____.

Notary Public

My commission expires _____.

EXHIBIT A
Legal Description of the Premises

All of Lot 205, UNIVERSITY MALL PLAT A - LOT 201-205 SUBDIVISION, according to the official plat thereof on file and of record in the office of the Utah county Recorder, recorded November 29, 2017 as Entry No. 117896:2017, Map Filing #15792, in the City of Orem, Utah County, Utah, more particularly described as follows:

BEGINNING at a point located 1029.07 feet North 89°10'43" West and 69.69 feet South 0°49'17" East from the East Quarter of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian (Basis of Bearings being South 0°12'36" East 2643.65 feet along the Section line between the East Quarter and Southeast Corner of said Section 23); and running thence South 279.26 feet; thence West 137.54 feet; thence North 0°01'47" West 222.61 feet; thence East 18.53 feet; thence North 57.60 feet; thence South 89°08'09" East 107.89 feet; thence North 86°33'05" East 11.27 feet to the POINT OF BEGINNING.

Contains 37,389 square feet or 0.858 acres, more or less.

APN: 57-094-0205