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PREPARED BY, AND AFTER RECORDING
RETURN TO:

E# 3348295 PG 1 OF 8
Leann H. Kiltz, WEBER COUNTY RECORDER
19-Nov-24 0330 PM FEE \$40.00 DEP LC
REC FOR: COTTONWOOD TITLE INSURANCE AGENCY,
ELECTRONICALLY RECORDED

Ryan M. Spencer
Red Bridge Capital IV LLC
6440 S. Wasatch Blvd., Suite 200
Salt Lake City, Utah 84121

08-664-0002 SW

SUBORDINATION, NONDISTURBANCE, AND ATTORNMENMENT AGREEMENT

This Subordination, Nondisturbance, and Attornment Agreement (this “**Agreement**”) dated November 9, 2024, is between RED BRIDGE CAPITAL IV, LLC, a Utah limited liability company whose address is 6440 S. Wasatch Blvd., Suite 200, Salt Lake City, Utah 84121 (the “**Lender**”); MIDLAND ACC, LLC, a Utah limited liability company whose address is 2314 North Church Street, Layton, Utah 84040 (the “**Landlord**”); and BURT BROTHERS, LLC, a Utah limited liability company whose address is 737 North 400 West, North Salt Lake, Utah 84054 (the “**Tenant**”).

Pursuant to a lease agreement dated April 8, 2024 (the “**Lease**”), the Landlord leased to the Tenant the property and improvements located at 4739 South 3500 West, city of Roy, Weber County, state of Utah, and more particularly described in exhibit A (the “**Leased Property**”) as a tire shop.

The Lender intends to provide a loan (the “**Loan**”) to the Landlord related to the purchase and development of the Leased Property and to secure the Loan with a deed of trust, security deed, mortgage, or similar encumbrance (the “**Mortgage**”). The promissory note, the Mortgage, any guarantees, and the other documents that evidence, guaranty, or secure the Loan are referred to in this Agreement as the “**Loan Documents**.”

The parties therefore agree as follows:

1. **Subordination.** The parties agree that the Lease will at all times be subject and subordinate in all respects to the Mortgage and to all renewals, modifications, and extensions thereof, subject to the terms and conditions of this Agreement.

2. **Attornment and Nondisturbance.** If the Lender succeeds to the interest of the Landlord under the Lease:

2.1 The Tenant shall attorn to and recognize the Lender as the landlord under the Lease for the remainder of the term of the Lease (including all extension periods that have been or are hereafter exercised) upon the same terms and conditions in the Lease, and if the Lease is terminated as a result of a default by the Landlord, if requested by the Lender, the Tenant shall enter into a new lease with the Lender for the remainder of the term of the Lease and upon the same terms and conditions in the Lease.

2.2 The Landlord shall not terminate the Lease or disturb the Tenant's possession of the Leased Property so long as the Tenant complies with and performs its obligations under the Lease and this Agreement, subject to the giving of any required notice of default and the expiration of any applicable cure periods.

2.3 The Lender and the Tenant, from the date of the succession, will have the same remedies against each other for the breach of the Lease as the Landlord and the Tenant had before the Lender succeeded to the interest of the Landlord.

2.4 The Tenant and the Landlord represent and warrant to the Lender that there are no current defaults under the Lease.

2.5 The provisions of this section 2 will be effective and self-operative without any need for the Lender or the Tenant to execute any further documents. But the Tenant and the Lender shall confirm the provisions of this section 2 in writing upon request by either of them.

2.6 **Actions Requiring Consent.** The Tenant and the Landlord shall not, without obtaining the prior written consent of the Lender, (a) enter into any agreement amending, modifying, assigning, or terminating the Lease, which consent will not be unreasonably withheld; (b) prepay any of the rent due under the Lease for more than one month in advance of the applicable due dates; (c) voluntarily surrender the Leased Property or terminate the Lease; or (d) assign the Lease or sublet the Leased Property or any part of the Leased Property other than pursuant to the provisions of the Lease.

2.7 **Notices Required.** The Tenant shall promptly give to the Lender copies of all notices of any default by the Landlord under the Lease in the same manner and whenever the Tenant gives any notice of a default to the Landlord, and the notice of default will be deemed not to have been given under the Lease unless and until a copy of the applicable notice has been delivered to the Lender pursuant to this Agreement.

2.8 **Right to Cure.** The Lender will have the right to remedy any Landlord default under the Lease, or to cause any default of the Landlord under the Lease to be remedied, and for that purpose the Tenant hereby grants the Lender an additional 30 days to remedy, or cause to be remedied, any default in addition to the period given to the Landlord for remedying, or causing to be remedied, any such default. The Tenant shall accept performance by the Lender of any term, covenant, condition, or agreement to be performed by the Landlord under the Lease with the same force and effect as though performed by the Landlord. No default by the Landlord under the Lease will exist or will be deemed to exist if the default cannot be reasonably cured within the above-referenced time period as long as the Lender, in good faith, has commenced to cure the default within the time period above and is pursuing the remedy to completion with reasonable diligence, subject to force majeure. The Lender or its designee will not be liable under the Lease unless and until the Lender or its designee becomes (and then only with respect to periods in which Lender or its designee becomes) the landlord under the Lease. Upon reasonable prior written notice to the Landlord and the Tenant, the Lender or its designee may enter upon the Leased Property at all reasonable times to visit or inspect the Leased Property.

3. **Authority to Execute.** Each individual executing this Agreement represents and warrants that the person is duly authorized to execute and deliver this Agreement on behalf of the applicable party and that this Agreement is binding upon such party in accordance with its terms.

4. **Notices.** Any notice, election, communication, request, or other document or demand required or permitted under this Agreement must be in writing and will be deemed delivered on the earlier to occur of (a) receipt or (b) the date of delivery, refusal, or nondelivery indicated on the return receipt, if deposited in a United States Postal Service depository, postage prepaid, sent certified mail, return receipt requested, or if sent via a recognized commercial courier service providing for a receipt, addressed to the Tenant, the Landlord, or the Lender, as the case may be, at the addresses in the introductory paragraph of this Agreement.

5. **Definitions.** The term "Lender" includes any successor or assignee of the Lender, including any lender to the Lender, any trustee of any lender to the Lender, any purchaser at a foreclosure sale and any transferee pursuant to a deed in lieu of foreclosure, and their successors and assigns. The terms "Tenant" and "Landlord" as used in this Agreement include any successor and assign of the named Tenant and Landlord, respectively, except that the reference to the Tenant's or the Landlord's successors and assigns will not be construed as the Lender's consent to any assignment or other transfer by the Tenant or the Landlord. Any lender to the Lender will be a beneficiary to all rights granted the Lender under this Agreement, subject to the lender's agreement to not to disturb the Tenant's possession under the Lease if the Tenant attorns to the lender in all of the Tenant's obligations under the Lease.

6. **Enforceability; No Merger of Title.** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, that provision will be deemed modified to the extent necessary to be enforceable, or if the modification is not practicable, the provision will be deemed deleted from this Agreement, and the other provisions of this Agreement will remain in full force and effect, and will be liberally construed in favor of the Lender. There will be no merger of the Lease or the associated leasehold estate with any other estate in the Leased Property, including, without limitation, the fee estate, by reason of the same person or entity acquiring or holding, directly or indirectly, the Lease and the leasehold estate and any other estate.

7. **Amendment.** Neither this Agreement nor any of the terms of this Agreement may be terminated, amended, supplemented, waived, or modified orally, but only by an instrument in writing executed by the party against which enforcement of the termination, amendment, supplement, waiver, or modification is sought.

8. **Governing Law.** This Agreement will be construed in accordance with the laws of the state in which the Leased Property is located.


9. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

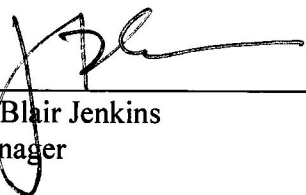
10. **Reliance.** The Tenant acknowledges that the Lender will rely on this Agreement when extending a loan to the Landlord.

The parties are signing this Subordination, Nondisturbance, and Attornment Agreement on the date stated in the introductory paragraph.

LENDER:

RED BRIDGE CAPITAL IV, LLC

By: 
Name: Shane R. Peery
Title: Manager

By: 
Name: J. Blair Jenkins
Title: Manager

LANDLORD:

MIDLAND ACC, LLC

By: _____
Name: Jeremy S. Hansen
Title: Authorized Member

TENANT:

BURT BROTHERS, LLC

By: _____
Name: Brian Maciak
Title: Chief Executive Officer

The parties are signing this Subordination, Nondisturbance, and Attornment Agreement on the date stated in the introductory paragraph.

LENDER:

RED BRIDGE CAPITAL IV, LLC

By: _____

Name: Shane R. Peery

Title: Manager

By: _____

Name: J. Blair Jenkins

Title: Manager

LANDLORD:

MIDLAND ACC, LLC

By: _____

Name: Jeremy S. Hansen

Title: Authorized Member

TENANT:

BURT BROTHERS, LLC

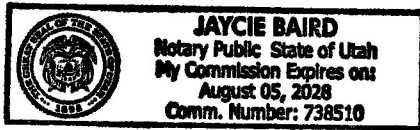
By: _____

Name: Cameron Caviness

Title: Vice President of Development

State of Utah,
County of Salt Lake.

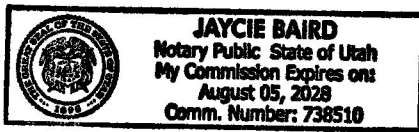
The foregoing instrument was acknowledged before me this November 11, 2024, by Shane R. Peery, a manager for RED BRIDGE CAPITAL IV LLC, a Utah limited liability company, on behalf of that company.



Jaycie Baird
NOTARY PUBLIC

State of Utah,
County of Salt Lake.

The foregoing instrument was acknowledged before me this November 11, 2024, by J. Blair Jenkins, a manager for RED BRIDGE CAPITAL IV LLC, a Utah limited liability company, on behalf of that company.



Jaycie Baird
NOTARY PUBLIC

The foregoing instrument was acknowledged before me this _____, 2024, by Jeremy S. Hansen, the authorized member of MIDLAND ACC, LLC, a Utah limited liability company, on behalf of that company.

NOTARY PUBLIC

The foregoing instrument was acknowledged before me this _____, 2024, by Brandon Burt, the Vice President for BURT BROTHERS, LLC, a Utah limited liability company, on behalf of that company.

NOTARY PUBLIC

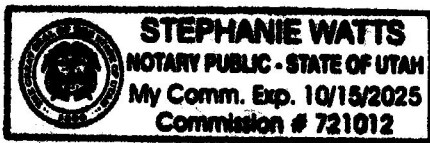
The foregoing instrument was acknowledged before me this _____, 2024, by Shane R. Peery, a manager for RED BRIDGE CAPITAL IV LLC, a Utah limited liability company, on behalf of that company.

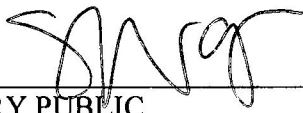
NOTARY PUBLIC

The foregoing instrument was acknowledged before me this _____, 2024, by J. Blair Jenkins, a manager for RED BRIDGE CAPITAL IV LLC, a Utah limited liability company, on behalf of that company.

NOTARY PUBLIC

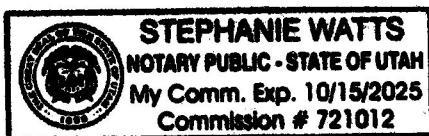
The foregoing instrument was acknowledged before me this 11-19-, 2024, by Jeremy S. Hansen, the authorized member of MIDLAND ACC, LLC, a Utah limited liability company, on behalf of that company.





NOTARY PUBLIC

The foregoing instrument was acknowledged before me this 11-19-, 2024, by Cameron Caviness, the Vice President of Development for BURT BROTHERS, LLC, a Utah limited liability company, on behalf of that company.





NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION

All of Lot 17, MIDLAND COMMERCIAL SUBDIVISION 3RD AMENDMENT, according to the official plat thereof as recorded in the office of the Weber County Recorder on March 17, 2021 as Entry No. 3135598.