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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2011 043035

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MICHAEL J. TAMM
RECORDER

This Agreement was prepared by, and after recording please return to:

Shook, Hardy & Bacon L.L.P.
2555 Grand Boulevard
Kansas City, Missouri 64106
Attention: Sandy Hawley, Esq.

(Merrillville, Indiana)

NCS-462592-21
SQ 1 2011

This document is intended to be recorded in Lake County, Indiana

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Document is NOT OFFICIAL!
SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT
This Document is the property of the Lake County Recorder!

by

HENDRICKS COMMERCIAL PROPERTIES, LLC,
as Lessor,

AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC,
as Tenant

and

U.S. BANK NATIONAL ASSOCIATION,
as Administrative Agent,
as Lender

Dated as of July 27, 2011

Return to:
First American Title Insurance Company
Attn: Deborah Cross
30 N. LaSalle St, Suite 2700
Chicago, IL 60602

AMOUNT \$ 35

CASH _____ CHARGE _____

CHECK # 021752

OVERAGE 1.00

COPY _____

NON-COM

CLERK HO

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

NOTICE TO LESSEE: THIS SUBORDINATION AGREEMENT RESULTS IN THE LEASEHOLD INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF THE SECURITY INSTRUMENT (AS DEFINED BELOW).

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("**Agreement**") is made effective as of this 27th day of July, 2011, by and among HENDRICKS COMMERCIAL PROPERTIES, LLC, a Wisconsin limited liability company ("**Owner**"); AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. a Delaware corporation ("**Tenant**"); and U.S. BANK NATIONAL ASSOCIATION, as administrative agent for the benefit of the Lenders from time to time party to the Credit Agreement defined below (the "**Agent**").

RECITALS

- A. Pursuant to the terms and provisions of that certain lease described in **Schedule I** attached hereto and incorporated by reference herein (as modified, extended, renewed and otherwise amended from time to time, the "**Lease**"), Owner, as "Landlord," granted to Tenant a leasehold estate in and to the property described on **Exhibit A** (which property, together with all improvements now or hereafter located on such property, is defined herein as the "**Property**");
- B. On or about the date hereof, Owner, as borrower, Agent, and the other Lenders party thereto have entered into a Credit Agreement pursuant to which the Lenders have agreed, subject to the terms and conditions set out in the Credit Agreement, to make a Loan to Owner (as amended, substituted, renewed, extended and otherwise modified from time to time, the "**Credit Agreement**"); any capitalized terms used in this Agreement and not otherwise defined shall have the meanings given to such terms in the Credit Agreement;
- C. Owner has executed, or proposes to execute, certain mortgages, deeds of trust, deeds to secure debt, and related assignments of leases and rents securing the Loan, including but not limited to that certain mortgage or deed of trust instrument (or similar instrument) described on **Schedule II**, attached hereto, regarding the Property (together with all amendments, modifications, extensions, renewals, replacements and substitutions thereof or therefor, the "**Security Instrument**");
- D. As a condition to making the Loan secured by the Security Instrument, Agent requires that the Security Instrument be unconditionally and at all times remain a lien on the Property, prior and superior to all the rights of Tenant under the Lease and that the Tenant specifically and unconditionally subordinate the Lease to the lien of the Security Instrument in accordance with the terms and provisions of this Agreement; and

E. Owner and Tenant have agreed to the subordination, attornment and other agreements herein in favor of Agent.

NOW THEREFORE, for valuable consideration and to induce Agent and the other Lenders to make the Loan, Owner and Tenant hereby agree as follows:

1. **Subordination.** Owner and Tenant hereby covenant and agree with the Agent that the Lease is and shall continue at all times hereafter to be junior, inferior and subordinate to all of the terms and liens of the Security Instrument, subject, however, to the provisions of this Agreement. Tenant intentionally and unconditionally subordinates the Lease and all of Tenant's right, title and interest in and to the Property (including any options to purchase, rights of first refusal and any similar rights) to the lien of the Security Instrument in accordance with the terms and provisions of this Agreement, and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific advances are being and will be made by Agent and the other Lenders and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon the agreements contained herein.

2. **Attornment.**

2.1. **Recognition by Tenant.** Tenant agrees that if Agent or any future holder of the Security Instrument shall become the owner of any or all the Property by reason of foreclosure of the Security Instrument or otherwise, or if any or all of the Property shall be sold or assigned as a result of any action or proceeding to foreclose the Security Instrument or transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect as a direct lease between the Tenant and the then owner of such portion of the Property as "Landlord" upon all the same terms, covenants and provisions contained in the Lease, except as may otherwise be provided herein.

2.2. **New Lease upon Request.** Upon request by the Agent or any subsequent owner of any portion of the Property, Tenant will execute a new lease or other written agreement (on the same terms and conditions as in the Lease) whereunder Tenant will attorn to Agent or subsequent owner and reaffirm Tenant's obligations under the Lease including the obligation to pay rents and other charges, as set out in the Lease, to Agent or such subsequent owner.

2.3. **Agent Released.** If Agent, by succeeding to the interest of Owner under the Lease, should become obligated to perform the covenants of Owner thereunder, then, upon any further transfer of Owner's interest by Agent, all of such obligations shall terminate as to Agent with respect to matters arising after the date of such transfer.

3. **Non-Disturbance.** In the event of a foreclosure under the Security Instrument, so long as there shall then exist no uncured default on the part of Tenant under the Lease, Agent agrees for itself and its successors and assigns that the leasehold interest of Tenant under the Lease shall not be extinguished or terminated by reason of such foreclosure, but rather the Lease shall continue in full force and effect in accordance with the terms thereof, except as may be

modified or limited by this Agreement, and Agent shall recognize and accept Tenant as tenant under the Lease subject to the terms and provisions of the Lease.

4. **Assignment.** Tenant acknowledges and consents to the assignment of the Lease by Owner in favor of Agent, for the benefit of the Lenders.

5. **Default; Assignment of Rents.** Tenant further covenants and agrees as follows:

5.1. **Notice of Default.** Tenant will notify Agent in writing concurrently with any notice given to Owner of any default by Owner under the Lease, and Tenant agrees that Agent 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 or take any action to exercise its rights in the event of default, if Agent cures such default within thirty (30) days from and after the expiration of the time period provided in the Lease for the cure thereof by Owner; provided, however, that if such default cannot with diligence be cured by Agent within such 30-day period, the commencement of action by Agent within such 30-day period to remedy the same shall be deemed sufficient so long as Agent pursues such cure with diligence but in no event beyond ninety (90) days;

5.2. **Assignment of Rents.** Upon receipt by Tenant of written notice from Agent that Agent has elected to terminate the license granted to Owner to collect rents, as provided in the Security Instrument and related Assignment of Leases and Rents, and directing the payment of rents by Tenant to Agent, Tenant shall comply with such direction to pay and shall not be required to determine whether Owner is in default under the Loan and/or the Security Instrument; Owner agrees that Tenant shall have the right to rely on any such notice from Agent without incurring any obligation or liability to Owner as if such notice were given at the direction of Owner. Tenant is hereby instructed to disregard any notice to the contrary received from or at the behest of Owner. Such payment of rent will continue until the first to occur of the following: (a) no further amounts are payable by the Tenant under the Lease; (b) the Agent gives the Tenant written notice that the rents and other payments be paid to Owner; or (c) the Agent gives the Tenant written notice that a purchaser has succeeded to the interests of Owner or the Agent under the Lease, after which time the rents and other payments will be directed by such purchaser.

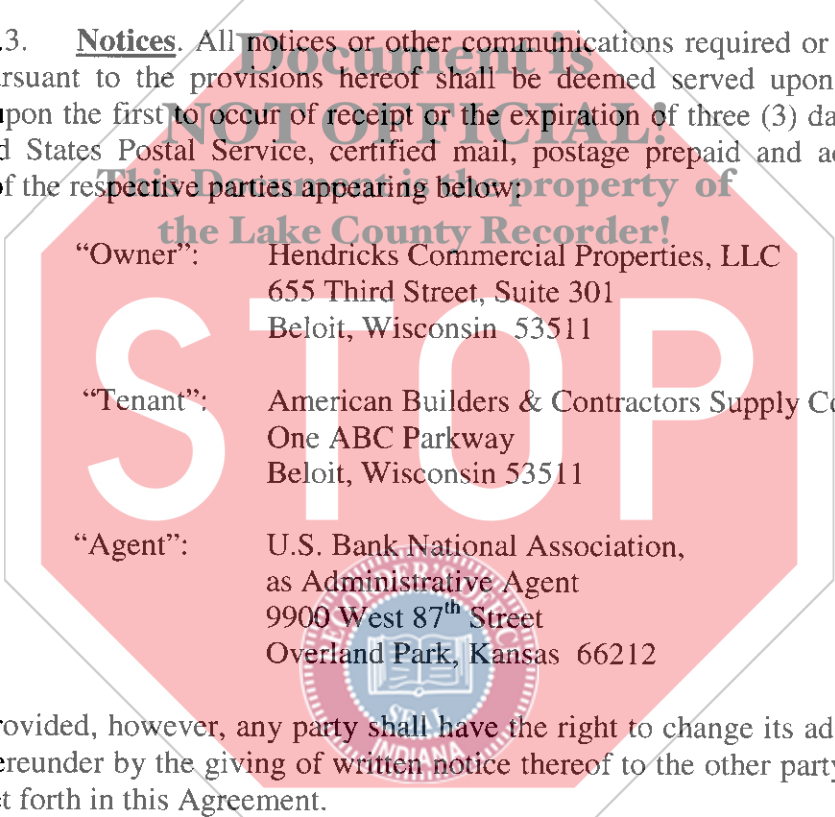
6. **Certain Actions Not Binding on Agent.** Owner and Tenant agree that: (a) without the prior written consent of the Agent, they shall not terminate, cancel or assign the Lease nor modify or amend the Lease in a manner which adversely affects the economic terms or reduces the length of the term of the Lease; and (b) Agent shall not be bound by any modification or amendment which adversely affects the economic terms or reduces the length of term of the Lease, or by any termination, cancellation or assignment of the Lease (in whole or in part) that is effected at any time after the date of this Agreement without Agent's prior written consent.

7. **Miscellaneous.**

7.1. **No Liability.** Anything herein or in the Lease to the contrary notwithstanding, (a) Agent shall have no obligation, nor incur any liability, with respect to any warranties of any nature whatsoever, whether pursuant to the Lease or otherwise, including, without limitation, any warranties respecting use, compliance with zoning, habitability and/or fitness for a particular purpose or possession; (b) in the event Agent shall acquire title to the Premises, Agent shall have no obligation nor incur any liability, beyond Agent's then interest, if any, in the Premises, and Tenant shall look exclusively to such interest of Agent, if any, in the Premises for the payment or discharge of any obligations imposed upon Agent hereunder or under the Lease; (c) Agent is hereby released of any obligations arising under the Lease prior to the Agent acquiring title to the Premises; and (d) neither Agent nor any other party acquiring title to the Premises shall be liable for any act or omission of any prior landlord (including the Owner) nor shall the Agent or any such other party be subject to any offsets or defenses which the Tenant might have against any prior landlord (including the Owner). Tenant further agrees that with respect to any money judgment which may be obtained or secured by Tenant against Agent, Tenant shall look solely to the estate or interest owned by the Agent in the Premises and Tenant will not collect or attempt to collect any such judgments against any other assets of Agent.

7.2. **Successors, Assigns and Transferees.** The covenants herein shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

7.3. **Notices.** All notices or other communications required or permitted to be given pursuant to the provisions hereof shall be deemed served upon delivery or, if mailed, upon the first to occur or the expiration of three (3) days after deposit in United States Postal Service, certified mail, postage prepaid and addressed to the address of the respective parties appearing below



“Owner”:
Hendricks Commercial Properties, LLC
655 Third Street, Suite 301
Beloit, Wisconsin 53511

“Tenant”:
American Builders & Contractors Supply Co., Inc.
One ABC Parkway
Beloit, Wisconsin 53511

“Agent”:
U.S. Bank National Association,
as Administrative Agent
9900 West 87th Street
Overland Park, Kansas 66212

provided, however, any party shall have the right to change its address for notice hereunder by the giving of written notice thereof to the other party in the manner set forth in this Agreement.

7.4. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

7.5. **Remedies Cumulative.** All rights of Agent herein to collect rents on behalf of Owner under the Lease are cumulative and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Agent and Owner or others.

7.6. **Paragraph Headings.** Paragraph headings in this Agreement are for convenience only and are not to be construed as part of this Agreement or in any way limiting or applying the provisions hereof.

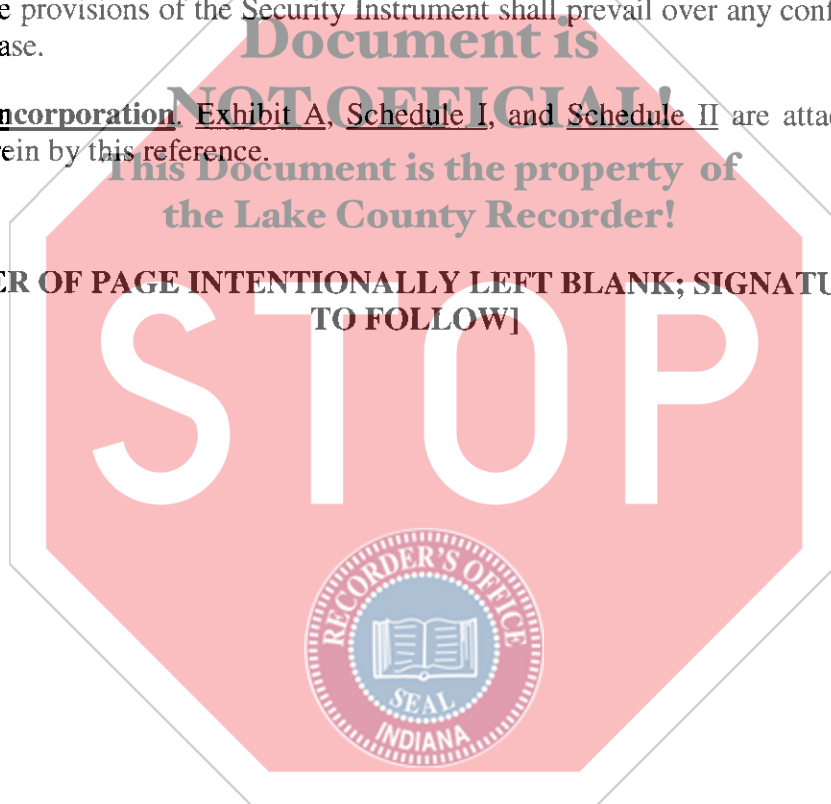
7.7. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State in which the Property is located.

7.8. **Owner's Consent.** By its execution and delivery of this Agreement, Owner consents to, and authorizes Tenant to comply with, each of the provisions hereof.

7.9. **Conflict between Security Instrument and Lease.** Anything contained in this Agreement to the contrary notwithstanding, Tenant agrees that as between Tenant and Agent the provisions of the Security Instrument shall prevail over any conflicting provision in the Lease.

8. **Incorporation.** Exhibit A, Schedule I, and Schedule II are attached hereto and incorporated herein by this reference.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE(S)
TO FOLLOW]



IN WITNESS WHEREOF, The parties hereto have executed and delivered this Agreement as of the day and year set forth above.

OWNER:

HENDRICKS COMMERCIAL PROPERTIES, LLC,
a Wisconsin limited liability company

By: *[Signature]*
Name: Diane M. Hendricks
Title: Manager & CEO

STATE OF WISCONSIN)
) ss
COUNTY OF ROCK)

On this 21 day of July, 2011, before me personally appeared the above-named DIANE M. HENDRICKS as authorized signatory of Hendricks Commercial Properties, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument on behalf of and by the authority of such limited liability company, and acknowledged the same.

NOT OFFICIAL!

This Document is the property of
the Lake County Recorder!

AILEEN MAELTZER
Notary Public
State of Wisconsin

[NOTARIAL SEAL]

Aileen Maeltzer
Notary Public
AILEEN MAELTZER
Name printed or typed

My Commission Expires:
7-19-13



AGENT:

U.S. BANK NATIONAL ASSOCIATION,
as Administrative Agent

By: *Chris Dolence*
Name: Chris Dolence
Title: Assistant Vice President

STATE OF WISCONSIN)
) ss
COUNTY OF ROCK)

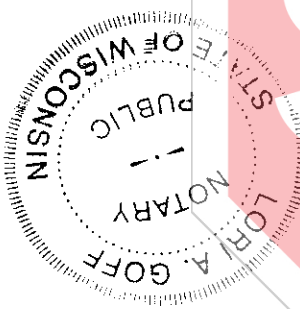
On this 21 day of July, 2011, before me personally appeared the above-named Chris Dolence as authorized signatory of U.S. Bank National Association, to me known to be the person who executed the foregoing instrument on behalf of and by the authority of U.S. Bank National Association, and acknowledged the same.

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Lori A Goff
Notary Public

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Lori A Goff
Name printed or typed

[NOTARIAL SEAL]



My Commission Expires:
8-26-12



Exhibit "A"

Description of Land

Property Address: 6501 Broadway, Merrillville, IN

Legal Description: See attached legal description



Exhibit "A"

Legal Description

Real property in the City of Merrillville, County of Lake, State of Indiana, described as follows:

A PARCEL OF LAND IN THE WEST HALF OF THE WEST HALF OF SECTION 10, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE 2ND PRINCIPAL MERIDIAN, IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT OF THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF THE GRAND TRUNK RAILWAY AND THE WEST LINE OF SAID SECTION 10, AND RUNNING THENCE NORTH ALONG THE WEST LINE OF SAID SECTION 10 A DISTANCE OF 315.88 FEET; THENCE EAST AT RIGHT ANGLES TO THE WEST LINE OF SAID SECTION 10 A DISTANCE OF 580.25 FEET; THENCE SOUTH AND PARALLEL TO THE WEST LINE OF SAID SECTION 10 A DISTANCE OF 434.82 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID GRAND TRUNK RAILWAY; THENCE WEST ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID GRAND TRUNK RAILWAY A DISTANCE OF 592.13 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING.

APN:



SCHEDULE I

LEASE

Industrial Building Lease dated March 1, 2004, executed by Hendricks Commercial Properties, LLC, as Landlord, and American Builders & Contractors Supply Co., Inc., as Tenant, as renewed, extended, modified and amended from time to time, regarding premises located at 6501 Broadway, Merrillville, Indiana.



SCHEUDLE II

SECURITY INSTRUMENT

That certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated on or about the date hereof, executed by Assignor in favor of Assignee, as Administrative Agent, regarding the tract(s)/parcel(s) of land described in Exhibit A attached to this Agreement and related property, and filed for record in the applicable recording office of the county in which such tract(s)/parcel(s) are located.

