

STATE OF INDIANA
LAKE COUNTY
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MICHAEL B. BROWN
RECORDER

Prepared by and
After Recording Return to:

Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104-2808
Attn: David W. Forti, Esq.

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STOP

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Date:

June 14, 2017

Lender:

CITIGROUP GLOBAL MARKETS REALTY CORP. and MORGAN STANLEY
BANK, N.A.

Tenant:

MARSHALLS OF MA, INC.

Landlord:

DDRM HIGHLAND GROVE LLC, A DELAWARE LIMITED LIABILITY
COMPANY

25100

✓ #40847 JTB
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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT
AGREEMENT

14

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of June 7th 2017 by and among Citigroup Global Markets Realty Corp. and Morgan Stanley Bank, N.A. ("Lender"), DDRM Highland Grove LLC ("Landlord") and Marshalls of MA, Inc. ("Tenant").

RECITALS:

WHEREAS, Lender is the holder of a Promissory Note which is secured, inter alia, by a Mortgage and Security Agreement (the "Mortgage") and Assignment of Lease and Rents (the "Lease Assignment") covering certain real property more particularly described in the Mortgage known as Highland Grove Center located in Highland, IN and described further in Schedule A; a copy of which is attached hereto (hereinafter referred to as "Property"); and

WHEREAS, Landlord and Tenant are the current holders of the interests of landlord and tenant under a Lease dated December 30, 1994 as the same has been amended from time to time (the "Lease"), whereby Landlord demised to Tenant a portion of the Property (the "Demised Premises"). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Lease.

NOW THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant, Landlord and Lender, intending to be legally bound hereby, covenant and agree as follows:

1. **SUBORDINATION**. This Lease shall be and is hereby made subordinate to the lien of (but not the terms and conditions of) the Mortgage and to all increases, renewals, modifications, amendments, consolidations and extensions thereof.

2. **NON-DISTURBANCE**. Provided that Tenant is not in default under the Lease of such a nature as would permit Landlord to terminate the Lease pursuant to default provisions of the Lease, Lender shall not, in the exercise of any right, remedy, or privilege granted by the Mortgage or the Lease Assignment, or otherwise available to Lender at law or in equity:

(i) disturb Tenant's possession, enjoyment, use or occupancy of the Demised Premises and the appurtenant rights thereto under the Lease during the term of the Lease (including any extensions, renewal, or modification thereof); or

(ii) join or name Tenant as a party to any foreclosure or other proceeding instituted by Lender to enforce the terms of the Mortgage or the Lease Assignment against Landlord.

In the event Lender comes into possession of or acquires title to all or any portion of the Property as a result of any enforcement of the Mortgage, or any other means, Tenant shall peaceably and quietly have,

hold and enjoy the Demised Premises and the rights of Tenant appurtenant thereto for the term of the Lease as the same may be extended, subject to the terms, covenants, conditions, provisions and agreements thereof.

3. ATTORNTMENT. In the event Lender comes into possession of or acquires title to all or any portion of the Property as a result of foreclosure or other enforcement of the Mortgage, or as a result of any other means, Lender agrees to recognize Tenant's possession of the Demised Premises and Tenant agrees to attorn to and accept Lender as landlord under the Lease for the balance then remaining of the term of the Lease, subject to all of the terms and conditions of the Lease.

Upon any attornment under this Paragraph 3, the Lease shall continue in full force and effect as a direct lease between Tenant and Lender and Lender will assume and perform all of Landlord's obligations under the Lease except that Lender shall not be:

(i) liable for any damages for any breach, act or omission of any prior landlord under the Lease except for acts or omissions of a continuing nature which continue after such time as Lender comes into possession of or acquires title to all or any portion of the Property; or

(ii) subject to any offsets, claims or defenses which Tenant might have against any prior landlord, including Landlord except to the extent such right of offset or defense is specifically set forth in the Lease, or unless Lender was previously notified of the act or event giving rise to such offset or defense; or

(iii) bound by any rent or additional rent or other payment in lieu of rent which Tenant might have paid to any prior landlord more than 30 days in advance of its due date under the Lease, unless such prepayment is required pursuant to the terms of the Lease; or

(iv) bound by any amendment or modification to the Lease which has the effect of decreasing the rent payable under the Lease, or decreasing the term of the Lease made without Lender's written consent which consent shall not be unreasonably withheld, conditioned or delayed; or

(v) be liable for any security deposit unless actually received by Lender.

4. RENTS. Landlord hereby advises Tenant that the Lease Assignment provides for the direct payment to Lender of all rents and other monies due and to become due to Landlord under the Lease upon the occurrence of certain conditions as set forth in the Lease Assignment without Lender's taking possession of the Demised Premises or otherwise assuming Landlord's position or any of Landlord's obligations under the Lease. After written notice is given to Tenant by Lender in form reasonably acceptable to Tenant, that Landlord has defaulted under the Mortgage and that the rentals under the Lease should be paid to Lender, Tenant shall pay to Lender, or in accordance with the direction of Lender all rentals and other monies due and to become due to the Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments as directed by Lender and hereby releases and discharges Tenant of, and from any liability to Landlord

on account of any such payments. Tenant shall have no responsibility to ascertain whether such demand by Lender is permitted under the Mortgage or the Lease Assignment. Furthermore, in connection with the aforesaid, and notwithstanding anything to the contrary contained elsewhere, Landlord, its successor and/or assigns hereby agree to indemnify and hold harmless Tenant against any expenses, claims, losses, or damages incurred by Tenant resulting from or arising out of claims by Landlord, its successors or assigns that such rental payments should not have been, or cannot be, made to Lender or the like.

5. DEFAULT NOTICES TO LENDER. So long as the Mortgage is in force and effect, Tenant agrees not to terminate the Lease by reason of default by Landlord under the Lease without giving prior written notice thereof to Lender and Lender shall have the right (but not the obligation until Lender comes into possession of or acquires title to all or any part of the Property) to cure any of Landlord's defaults under the Lease within the same time period as is available to Landlord for the curing thereof under the Lease after receipt of such notice except Tenant shall have the right to exercise its enumerated termination rights set forth in the Lease without giving Lender notice or the opportunity to cure.

6. NOTICES. All notices and other communications pursuant to the provisions of this Agreement shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by a reputable commercial overnight carrier that provides a receipt such as Federal Express or Airborne Express, and shall be deemed given when received and addressed as noted below, or to such other address or addresses as shall from time to time be designated by notice by any party to the others as herein provided.

If to Tenant:

Marshalls of MA, Inc.
c/o The TJX Companies, Inc.
770 Cochituate Road
Framingham, MA 01701
Attn: Vice President - Real Estate

If to Lender:

Citigroup Global Markets Realty Corp.
390 Greenwich Street
7th Floor
New York, NY 10013
Attn: CMBS Real Estate Legal Notices

Morgan Stanley Bank, N.A.
1585 Broadway
25th Floor
New York, NY 10036
Attn: George Kok

If to Landlord:

DDRM Highland Grove LLC
c/o DDR Corp.
3300 Beachwood Parkway
Beachwood, OH 44122
Attn: Executive Vice President-Leasing
cc: General Counsel

Any party may change the place that notices are to be sent by written notice delivered in accordance with this Agreement.

7. SUCCESSORS AND ASSIGNS. As used in this Agreement, the term "Tenant" shall mean Tenant and any subsequent holder or holders of an interest of the lessee under the Lease, and the term "Lender" shall mean Lender or any other subsequent holder or holders of the Mortgage or any party becoming a mortgagee in possession or acquiring title to the Property or the Demised Premises by purchase at a foreclosure sale, deed in lieu of foreclosure, other enforcement of the Mortgage, by deed of the Lender, or otherwise. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. The terms Lease, Mortgage and Lease Assignment shall include any and all amendments, modifications, replacements, substitutions, extensions, renewals and supplements thereto. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceable shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8. RECORDATION. Mortgagee agrees to record this agreement promptly upon full execution of the same. Upon recorded satisfaction of the Mortgage, this Agreement shall become null and void and be of no further effect.



9. AUTHORITY. The individuals executing this Agreement hereby represent and warrant that they are empowered and duly authorized to so execute this agreement on behalf of the parties they represent.

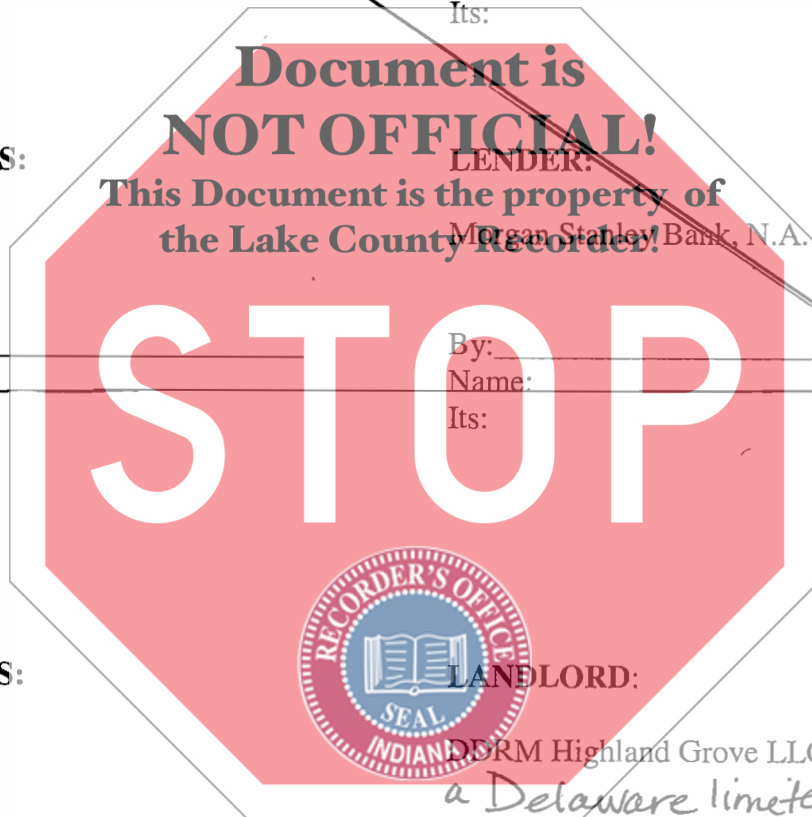
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

WITNESS: _____ *SEE ATTACHED PAGES*
~~LENDER:~~

Citigroup Global Markets
Realty Corp.

By: _____
Name: _____
Its: _____

WITNESS:

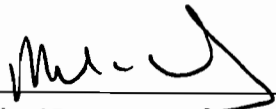


~~LENDER:~~
Morgan Stanley Bank, N.A.

By: _____
Name: _____
Its: _____

WITNESS:

~~LANDLORD:~~
DDRM Highland Grove LLC
a Delaware limited liability company

By: 
Name: **Michael Deering**
Its: **Senior Vice President of Funds Management**

WITNESSES AS TO BOTH:

Melanie Stearns

[Signature]

TENANT:

Marshalls of MA, Inc.

By: Mary B Reynolds
Mary B. Reynolds
Vice President and Treasurer

By: David L Averill
David L. Averill
Vice President



IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first above written.

LENDER:

CITIGROUP GLOBAL MARKETS REALTY CORP.

By: _____
Name: Harry Kramer
Title: Vice President

STATE OF NEW YORK §
COUNTY OF NEW YORK §

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This instrument was acknowledged before me on the 25th day of July, 2017 by Harry Kramer, Vice President of Citigroup Global Markets Realty Corp., on behalf of Citigroup Global Markets Realty Corp.

[S E A L]

Nannette L. Edwards
Notary Public, State of New York
No. D1ED6158862
Qualified in Queens County
Commission Expires Jan. 08, 2019

Notary Public - State of New York

My Commission Expires:

01.08.2019

Printed Name of Notary Public



IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first above written.

LENDER:

CITIGROUP GLOBAL MARKETS REALTY CORP.

By: _____
Name: Harry Kramer
Title: Vice President

STATE OF NEW YORK §
COUNTY OF NEW YORK §

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This instrument was acknowledged before me on the 20th day of July, 2017 by Harry Kramer, Vice President of Citigroup Global Markets Realty Corp., on behalf of Citigroup Global Markets Realty Corp.


[S E A L]

My Commission Expires: 01-08-2019

Hannette L. Edwards
Notary Public, State of New York
No. 01ED6158862
Qualified in Queens County
Commission Expires Jan. 08, 2019

Notary Public - State of New York

Printed Name of Notary Public



SEE ATTACHED PAGE
LENDER'S ACKNOWLEDGEMENT

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____
day of _____, 2017 by _____ and
_____ on behalf of _____.

Notary Public
My Commission Expires:

LANDLORD'S ACKNOWLEDGEMENT

NOT OFFICIAL!

STATE OF Ohio)
) SS.
CITY/COUNTY OF Cuyahoga)

The foregoing instrument was acknowledged before me this 2nd
day of August, 2017 by Michael Deering and
_____ on behalf of DDRM Highland Grove LLC.



DEBRA FULTZ
Notary Public, State of Ohio
My Commission Expires
July 22, 2018
Recorded in Lake County
Vol. 107 Page 190



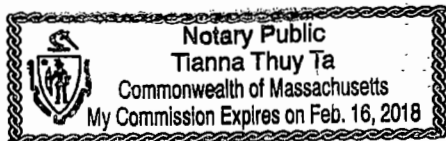
Debra Fultz
Notary Public
My Commission Expires: 7/22/2018

TENANT'S ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS)
) SS.
COUNTY OF MIDDLESEX)

The foregoing instrument was acknowledged before me this 7th
day of June, 2017 by Mary B. Reynolds, Vice President and Treasurer
and David L. Averill, Vice President of Marshalls of MA, Inc. on behalf of the
corporation.

Leanna Shyne
Notary Public
My Commission Expires:



Schedule A-2
Legal Description

THAT PART OF LOT 1 IN HIGHLAND TOWN CENTER SUBDIVISION,
BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE
SOUTHWEST 1/4 OF SECTION 33 AND PART OF THE SOUTHEAST 1/4
OF SECTION 32, ALL IN TOWNSHIP 36 NORTH, RANGE 9 WEST OF
THE SECOND PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT
THEREOF RECORDED IN THE OFFICIAL RECORDS OF LAKE COUNTY,
INDIANA ON SEPTEMBER 8, 1994 AS DOCUMENT NO. 94063406.

BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE
NORTH 0 DEGREES 09 MINUTES 48 SECONDS WEST, ALONG THE EAST
LINE OF SAID LOT, 463.92 FEET TO THE HEREIN DESIGNATED
POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 50 MINUTES 12
SECONDS WEST, PERPENDICULAR TO THE LAST DESCRIBED LINE,
195.93 FEET; THENCE SOUTH 0 DEGREES 09 MINUTES 48 SECONDS
EAST, 10 FEET; THENCE SOUTH 89 DEGREES 50 MINUTES 12
SECONDS WEST, 239.76 FEET; THENCE NORTH 0 DEGREES 09
MINUTES 48 SECONDS WEST, 2.79 FEET; THENCE SOUTH 89
DEGREES 50 MINUTES 12 SECONDS WEST, 195.93 FEET; THENCE
SOUTH 0 DEGREES 09 MINUTES 48 SECONDS EAST, 472.27 FEET;
THENCE SOUTHWESTERLY 38.61 FEET ALONG THE ARC OF A CIRCLE,
TANGENT TO THE LAST DESCRIBED LINE, CONVEX TO THE
SOUTHEAST, HAVING A RADIUS OF 61.50 FEET AND WHOSE CHORD
BEARS SOUTH 16 DEGREES 36 MINUTES 47 SECONDS WEST, 35.50
FEET TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF
SAID LOT; THENCE NORTH 89 DEGREES 27 MINUTES 34 SECONDS
WEST, ALONG SAID SOUTH LINE, 297.06 FEET TO THE POINT OF
INTERSECTION WITH THE WESTERLY LINE OF SAID LOT; THENCE
NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT BY THE
FOLLOWING COURSES: THENCE NORTH 0 DEGREES 11 MINUTES 11
SECONDS WEST, 0.09 FEET; THENCE NORTH 34 DEGREES 46
MINUTES 25 SECONDS WEST, 17.92 FEET; THENCE NORTH 1 DEGREE
55 MINUTES 20 SECONDS EAST, 248.52 FEET; THENCE NORTH 2
DEGREES 34 MINUTES 45 SECONDS EAST, 374.45 FEET; THENCE
NORTH 44 DEGREES 51 MINUTES 46 SECONDS EAST, 40.57 FEET; THENCE
NORTH 2 DEGREES 34 MINUTES 45 SECONDS EAST, 60.00 FEET;
THENCE NORTH 41 DEGREES 03 MINUTES 43 SECONDS WEST, 6.00
FEET TO THE NORTHERLY TERMINUS OR CORNERS ALONG THE
WESTERLY LINE OF SAID LOT; THENCE NORTH 89 DEGREES 50
MINUTES 12 SECONDS EAST, 236.24 FEET; THENCE NORTH 44
DEGREES 50 MINUTES 12 EAST, 28.28 FEET; THENCE NORTH 0
DEGREES 09 MINUTES 48 SECONDS WEST, 223.40 FEET; THENCE
NORTHEASTERLY 528.83 FEET ALONG THE ARC OF A CIRCLE,
TANGENT TO THE LAST DESCRIBED LINE, CONVEX TO THE
NORTHWEST, HAVING A RADIUS OF 441.00 FEET, WHOSE CHORD
BEARS NORTH 34 DEGREES 11 MINUTES 26 SECONDS EAST, 497.71
FEET; THENCE NORTH 89 DEGREES 50 MINUTES 12 SECONDS EAST,
ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE AND DRAWN
PERPENDICULAR TO THE EAST LINE OF SAID LOT, 566.38 FEET TO
A POINT ON THE EAST LINE OF SAID LOT, SAID POINT BEING
934.66 FEET NORTH OF THE POINT OF BEGINNING; THENCE SOUTH
0 DEGREES 09 MINUTES 48 SECONDS EAST, 934.66 FEET TO THE
HEREINABOVE DESIGNATED POINT OF BEGINNING, ALL IN THE TOWN
OF HIGHLAND, LAKE COUNTY, INDIANA.

AREA = 983,274.2 SQUARE FEET OR 22.5729 ACRES