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This document prepared by and after
Recording return to:

12
Much Shelist, P.C.
191 North Wacker Drive
Suite 1800
Chicago, Illinois 60606
Attn: Courtney E. Mayster

GINA PIMENTEL
RECORDER
STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2021-058911

8:42 AM 2021 Sep 14

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") dated this 17 day of May, 2013, is made by and among VITAMIN SHOPPE INDUSTRIES INC., a New York corporation ("Tenant"), MJF/HIGHLAND REAL ESTATE HOLDING COMPANY, LLC, a Illinois limited liability company ("Landlord"), and ASSOCIATED BANK, NATIONAL ASSOCIATION, a national banking association ("Mortgagee").

WHEREAS, Mortgagee has agreed to make a loan to Landlord in the maximum principal amount of \$3,400,000.00, secured by, among other things, a Construction Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents (herein, as may from time to time be extended, amended, restated or supplemented, the "Mortgage"), covering, among other property, the land (the "Land") described in Exhibit A which is attached hereto and incorporated herein by reference, and the improvements thereon ("Improvements") (such Land and Improvements being herein together called the "Property");

WHEREAS, Tenant is the tenant under a Lease from Landlord (or Landlord's predecessor in ownership of the Property) dated _____, 20__ (herein, as may from time to time be extended, amended, restated or supplemented, the "Lease"), covering a portion of the Property (said portion being herein referred to as the "Premises"); and

WHEREAS, the term "Landlord" as used herein means the present landlord under the Lease or, if the landlord's interest is transferred in any manner, the successor(s) or assign(s) occupying the position of landlord under the Lease at the time in question.

NOW, THEREFORE, in consideration of the mutual agreements herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Subordination. Tenant agrees and covenants, subject to the terms of this Agreement, that the Lease and the rights of Tenant thereunder, all of Tenant's right, title and interest in and to the property covered by the Lease, and any lease thereafter executed by Tenant covering any part of the Property, are and shall be subject, subordinate and inferior in all respects to (a) the lien of the Mortgage and the rights of Mortgagee thereunder, and all right, title and

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interest of Mortgagee in the Property, and (b) the lien of all other security documents now or hereafter securing payment of any indebtedness of the Landlord (or any prior landlord) to Mortgagee which cover or affect all or any portion of the Property (collectively, the "Loan Documents"). This Agreement is not intended and shall not be construed to subordinate the Lease to any mortgage, deed of trust or other security document other than those referred to in the immediately preceding sentence, securing the indebtedness owing to Mortgagee. Without limiting the generality of the foregoing subordination provision, the Tenant hereby agrees that any of its right, title and interest in and to insurance proceeds and condemnation awards (or other similar awards arising from eminent domain proceedings) with respect to damage to or the condemnation (or similar taking) of any of the Property, shall be applied and disbursed in accordance with the terms of the Lease.

2. Non-Disturbance. Mortgagee agrees that so long as the Lease is in full force and effect and Tenant is not in default in the payment of rent, additional rent or other payments due under the Lease or in the performance of any of the other terms, covenants or conditions of the Lease on Tenant's part to be performed (beyond the period, if any, specified in the Lease within which Tenant may cure such default),

(a) Tenant's possession of the Premises under the Lease shall not be disturbed or interfered with by Mortgagee in the exercise of any of its foreclosure rights under the Mortgage or in connection with the conveyance of the Property by deed in lieu of foreclosure, and

(b) Mortgagee will not join Tenant as a party defendant for the purpose of terminating Tenant's interest and estate under the Lease in any proceeding for foreclosure of the Mortgage.

3. Attornment.

(a) Tenant covenants and agrees that in the event of the foreclosure of the Mortgage, whether by power of sale or by court action, or upon a transfer of the Property by a deed in lieu of foreclosure (each being referred to herein as the "Transfer Date") (the purchaser at foreclosure or the transferee in such deed in lieu of foreclosure, including Mortgagee if it is such purchaser or transferee, being herein called the "New Owner"), Tenant shall attorn to the New Owner as Tenant's new landlord, and agrees that the Lease shall continue in full force and effect as a direct lease between Tenant and New Owner upon all of the terms, covenants, conditions and agreements set forth in the Lease and this Agreement, except for provisions which are impossible for New Owner to perform; provided, however, that in no event shall the New Owner be:

(i) liable for any act, omission, default, misrepresentation, or breach of warranty, of any previous landlord (including Landlord) or obligations accruing prior to New Owner's actual ownership of the Property, except for any default that remains unremedied after Tenant has notified New Owner and has given New Owner the opportunity to cure;

(ii) subject to any offset, defense, claim or counterclaim which Tenant might be entitled to assert against any previous landlord (including Landlord) unless the Tenant shall have provided the Mortgagee with (A) notice of the applicable default that gave rise to such offset or defense, and (B) the opportunity to cure the same, all in accordance with the terms of Section 4(b) below;

(iii) bound by any payment of rent, additional rent or other payments, made by Tenant to any previous landlord (including Landlord) for more than one (1) month in advance of the date when due under the Lease;

(iv) bound by any material amendment or modification of the Lease hereafter made, without the written consent of Mortgagee (if such consent is required pursuant to the terms of the Loan Documents). For purposes of this Agreement, a "material" amendment shall mean any decrease in the rent (including any additional rent or pass-through costs), a reduction or extension of the lease term by more than ninety (90) days, the grant of any purchase option, any modification of the lease guaranty, or any modification that otherwise materially increases the obligations of landlord under the Lease or materially decreases the rights of landlord under the Lease; or

(v) liable for any deposit that Tenant may have given to any previous landlord (including Landlord) which has not been transferred to New Owner.

(b) The provisions of this Agreement regarding attornment by Tenant shall be self-operative and effective without the necessity of execution of any new lease or other document on the part of any party hereto or the respective heirs, legal representatives, successors or assigns of any such party. Tenant agrees, however, to execute and deliver upon the request of New Owner, any reasonable instrument or certificate which in the reasonable judgment of New Owner may be necessary or appropriate to evidence such attornment, including a new lease of the Premises on the same terms and conditions as set forth in the Lease for the unexpired term of the Lease.

4. Acknowledgment and Agreement by Tenant. Tenant acknowledges and agrees as follows:

(a) Tenant will not materially amend, alter or waive any provision of, or consent to the material amendment, alteration or waiver of any provision of the Lease without the prior written consent of Mortgagee, unless such amendment is permitted pursuant to the Loan Documents. Tenant shall not prepay any rents or other sums due under the Lease for more than one (1) month in advance of the due date therefor. Tenant acknowledges that Mortgagee will rely upon this instrument in connection with the financing being made by Mortgagee and secured, in part, by the Mortgage.

(b) From and after the date hereof, in the event of a default by Landlord which would give Tenant the right, either immediately or after the lapse of time, to terminate the Lease or to claim a partial or total eviction, Tenant will not exercise any such right (i) until it has given written notice of such act or omission to the Mortgagee; and (ii) until

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Tenant has given Mortgagee a period of thirty (30) days after the expiration of Landlord's applicable cure period to cure such default, or such longer period of time as may be necessary to cure or remedy such default, during which period of time Mortgagee shall be permitted to cure or remedy such default; provided, however, that Mortgagee shall have no duty or obligation to cure or remedy any default. It is specifically agreed that Tenant shall not, as to Mortgagee, require cure of any such default which is personal to Landlord, and therefore not susceptible to cure by Mortgagee.

(c) In the event that Mortgagee notifies Tenant of a default under the Mortgage or Loan Documents and demands that Tenant pay its rent and all other sums due under the Lease directly to Mortgagee, and provided Landlord has executed this Agreement, Tenant shall honor such demand and pay the full amount of its rent and all other sums due under the Lease directly to Mortgagee, without offset, or as otherwise required pursuant to such notice beginning with the payment next due after such notice of default, without inquiry as to whether a default actually exists under the Mortgage or other Loan Documents, and notwithstanding any contrary instructions of or demands from Landlord.

(d) Tenant has no right or option of any nature whatsoever, whether pursuant to the Lease or otherwise, to purchase the Premises or the Property, 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 Mortgage and is hereby waived and released as against Mortgagee and New Owner.

(e) Mortgagee and any New Owner shall have no obligation nor incur any liability with respect to the erection or completion of any improvements in which the Premises are located or for completion of the Premises or any improvements, excluding any ongoing maintenance and repair obligations set forth in the Lease, for Tenant's use and occupancy, either at the commencement of the term of the Lease or upon any renewal or extension thereof or upon the addition of additional space, pursuant to any expansion rights contained in the Lease.

(f) Mortgagee and any New Owner 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, Landlord's title, Landlord's authority, habitability, fitness for purpose or possession provided that to the extent that the breach of any such warranty shall give the Tenant the right to terminate the Lease pursuant to the terms of the Lease, Tenant shall retain such right to terminate pursuant to the terms of the Lease.

(g) In the event that Mortgagee or any New Owner shall acquire title to the Premises or the Property, Mortgagee or such New Owner shall have no obligation, nor incur any liability, beyond Mortgagee's or New Owner's then equity interest, if any, in the Property or the Premises, and Tenant shall look exclusively to such equity interest of Mortgagee or New Owner, if any, for the payment and discharge of any obligations imposed upon Mortgagee or New Owner hereunder or under the Lease or for recovery of any judgment from Mortgagee, or New Owner, and in no event shall Mortgagee, New

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Owner, nor any of their respective officers, directors, shareholders, agents, representatives, servants, employees or partners ever be personally liable for such judgment.

5. Acknowledgment and Agreement by Landlord. Landlord, as landlord under the Lease and grantor under the Mortgage, acknowledges and agrees for itself and its heirs, representatives, successors and assigns, that: (a) this Agreement does not constitute a waiver by Mortgagee of any of its rights under the Mortgage or any of the other Loan Documents, or in any way release Landlord from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Mortgage and the other Loan Documents; (b) the provisions of the Mortgage and the other Loan Documents remain in full force and effect and must be complied with by Landlord; and (c) Tenant is hereby authorized to pay its rent and all other sums due under the Lease directly to Mortgagee upon receipt of a notice as set forth in paragraph 4(c) above from Mortgagee and that Tenant is not obligated to inquire as to whether a default actually exists under the Mortgage or any of the other Loan Documents. Landlord hereby releases and discharges Tenant of and from any liability to Landlord resulting from Tenant's payment to Mortgagee in accordance with this Agreement. Landlord represents and warrants to Mortgagee that a true and complete copy of the Lease has been delivered by Landlord to Mortgagee.

6. Lease Status. Landlord and Tenant represent and warrant to Mortgagee that neither Landlord nor Tenant has knowledge of any default on the part of the other under the Lease, that the Lease is bona fide and contains all of the agreements of the parties thereto with respect to the letting of the Premises and that all of the agreements and provisions therein contained are in full force and effect.

7. Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder shall be in writing and shall be deemed sufficiently given or furnished if delivered by personal delivery, by expedited delivery service with proof of delivery, or by registered or certified United States mail, postage prepaid, at the addresses specified at the end of this Agreement (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt by the parties hereto other than the particular party whose address is to be changed. This Paragraph 7 shall not be construed in any way to affect or impair any waiver of notice or demand provided in this Agreement or in the Lease or in any document evidencing, securing or pertaining to the loan secured by the Mortgage or to require giving of notice or demand to or upon any person in any situation or for any reason.

8. Miscellaneous.

- (a) This Agreement supersedes any inconsistent provision of the Lease.

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(b) Nothing contained in this Agreement shall be construed to derogate from or in any way impair, or affect the lien, security interest or provisions of the Mortgage or the other Loa Documents.

(c) This Agreement shall inure to the benefit of the parties hereto, their respective successors and permitted assigns, and any New Owner, and its heirs, personal representatives, successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of Mortgagee, all obligations and liabilities of the assigning Mortgagee under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Mortgagee's interest is assigned or transferred.

(d) THIS AGREEMENT AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS AND APPLICABLE UNITED STATES FEDERAL LAW EXCEPT ONLY TO THE EXTENT, IF ANY, THAT THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED NECESSARILY CONTROL.

(e) The words "herein", "hereof", "hereunder" and other similar compounds of the word "here" as used in this Agreement refer to this entire Agreement and not to any particular section or provision.

(f) This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

(g) If any provision of the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not apply to or affect any other provision hereof, but this Agreement shall be construed as if such invalidity, illegality, or unenforceability did not exist.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and sealed as of the date first above written.

ADDRESS OF MORTGAGEE:

Attention: _____

MORTGAGEE:

ASSOCIATED BANK, NATIONAL ASSOCIATION,
a national banking association

By: _____
Name: JAKI BRUNER
Title: SR. VICE PRESIDENT

ADDRESS OF TENANT:

2101 91st St.
North Bergen NJ
07047

TENANT:

VITAMIN SHOPPE INDUSTRIES INC., a New York corporation

By: Brian R. Bortey kw
Name: Brian R. Bortey
Title: VP Real Estate & Development

ADDRESS OF LANDLORD:

790 Estate Drive
Suite 100
Deerfield, IL 60015

LANDLORD:

MJF/HIGHLAND REAL ESTATE HOLDING COMPANY, LLC, a Illinois limited liability company

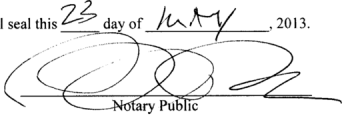
By: _____
Name: Jeffrey Silverman
Title: Managing Member

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that JAVI BERON, the SVP of **ASSOCIATED BANK, NATIONAL ASSOCIATION**, a national banking association who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 23 day of July, 2013.



Notary Public



My Commission Expires:
6/17/14

Property of Lake County Recorder

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STATE OF NJ)
) SS.
COUNTY OF Hudson)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Brian R. Baskin the VP of **VITAMIN SHOPPE INDUSTRIES INC.**, a New York corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16th day of May, 2013.

Kerry A. Madden
Notary Public

My Commission Expires:

KERRY A. MADDEN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 4, 2014
ID # 41503

Property of Lake County Recorder

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STATE OF ILLINOIS)
) SS.
COUNTY OF Lake)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Jeffrey Silverman, the Managing Member of MJF/HIGHLAND REAL ESTATE HOLDING COMPANY, LLC, a Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 30 day of August, 2013.



Melissa M. Noesges
Notary Public

My Commission Expires:

November 20, 2015

Property of Lake County Recorder

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Parcel I:

That part of Lot Numbered One (1) in Highland Town Center, in the Town of Highland, as per plat thereof, recorded in Plat Book 77, page 23, in the Office of the Recorder of Lake County, Indiana, bounded and described as follows:

Commencing at the Southeast corner of said Lot 1; thence North 89 degrees 27 minutes 34 seconds West, along the South line of said Lot 1, a distance of 1148.11 feet; thence North 00 degrees 11 minutes 11 seconds West, along a Westerly line of said Lot 1, a distance of 0.09 feet; thence North 34 degrees 46 minutes 25 seconds West, along a Westerly line of said Lot 1, a distance of 17.72 feet; thence North 01 degrees 55 minutes 20 seconds East, along a Westerly line of said Lot 1, a distance of 248.52 feet; thence North 02 degrees 34 minutes 45 seconds East, along a Westerly line of said Lot 1, a distance of 374.45 feet; thence North 44 degrees 51 minutes 46 seconds East, along a Westerly line of said Lot 1, a distance of 40.57 feet; thence North 02 degrees 34 minutes 45 seconds East, along a Westerly line of said Lot 1, a distance of 60.00 feet; thence North 41 degrees 03 minutes 43 seconds West, along a Westerly line of said Lot 1, a distance of 6.00 feet, to the Point of Beginning; thence Continuing along the last described course North 41 degrees 03 minutes 43 seconds West, a distance of 33.55 feet; thence North 02 degrees 34 minutes 45 seconds East, along a Westerly line of said Lot 1, a distance of 125.89 feet; thence North 01 degrees 08 minutes 49 seconds East, along a Westerly line of said Lot 1, a distance of 87.11 feet; thence North 89 degrees 50 minutes 12 seconds East, along a line at right angles to the East line of said Lot 1, a distance of 270.19 feet, to a point 847.24 feet West of the East line of said Lot 1 (as measured at right angles thereto); thence South 00 degrees 09 minutes 48 seconds East, along a line parallel to said East line of Lot 1, a distance of 218.20 feet; thence South 44 degrees 50 minutes 12 seconds West, a distance of 28.28 feet; thence South 89 degrees 50 minutes 12 seconds West, along a line at right angles to said East line of Lot 1, a distance of 236.24 feet, to the Point of Beginning, in the Town of Highland, Lake County, Indiana.

EXCEPTING THEREFROM THE FOLLOWING;

A part of Lot 1 in Highland Town Center Subdivision, an addition to the Town of Highland, Indiana, the plat of which is recorded in Plat Book 77, page 23, in the Office of the Recorder of Lake County, Indiana, described as follows:

Commencing at the Southwest corner of said Lot; thence North 1 degree 45 minutes 42 seconds East, a distance of 75.749 meters (248.52 feet) along the West line of said Lot; thence North 2 degrees 25 minutes 07 seconds East, a distance of 114.132 meters (374.45 feet) along said West line; thence North 44 degrees 42 minutes 08 seconds East, a distance of 12.366 meters (40.57 feet) along said West line; thence North 2 degrees 25 minutes 07 seconds East, a distance of 18.288 meters (60.00 feet) along said West line; thence North 41 degrees 13 minutes 21 seconds West, a distance of 1.829 meters (6.00 feet) along said West line to a Southwest corner of the Owner's land and the point of beginning of this description; thence continuing North 41 degrees 13 minutes 21 seconds West, a distance of 10.226 meters (33.55 feet) along said West line; thence North 2 degrees 25 minutes 07 seconds East, a distance of 38.371 meters (125.89 feet) along said West line; thence North 0 degrees 59 minutes 11 seconds East, a distance of 26.551 meters (87.11 feet) along said West line to the Northwest corner of the Owner's land; thence North 89 degrees 40 minutes 34 seconds East, a distance of 5.168 meters (16.96 feet) along the

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North line of the Owner's land; thence Southerly, a distance of 6.717 meters (22.04 feet) along an arc to the right and having a radius of 3,520.000 meters (11,548.56 feet) and subtended by a long chord having a bearing of South 2 degrees 18 minutes 51 seconds West and a length of 6.717 meters (22.04 feet); thence South 2 degrees 22 minutes 08 seconds West, a distance of 61.453 meters (201.62 feet); thence South 44 degrees 35 minutes 46 seconds East, a distance of 6.293 meters (20.65 feet) to the South line of the Owner's land; thence South 89 degrees 40 minutes 34 seconds West, a distance of 2.113 meters (6.93 feet) along said South line to the point of beginning and containing 0.0322 hectares (0.079 acres), more or less. As evidenced by an Agreed Finding and Judgment recorded April 14, 2003, as Document No. 2003-037734 and April 16, 2003, as Document No. 2003-038648.

Parcel II - EAS:

Terms, provisions and conditions of an Operation and Easement Agreement made by and between Dayton Hudson Corporation, Opus North Corporation and Calumet National Bank, as trustee under Declaration of Trust dated May 11, 1992 and known as Trust No. P-3894 and recorded September 26, 1994 as Document No. 94066757.

Amended by the First Amended to Operating and Easement Agreement dated March 29, 1995 and recorded April 6, 1995 as Document No. 95019082 made by and between Dayton Hudson Corporation and American Store Properties Inc.

Further amended by the Second Amendment to Operating and Easement Agreement dated June 28, 1995 and recorded July 6, 1995 as Document No. 95037841.

Further amended by the Third Amendment to Operating and Easement Agreement dated June 27, 2001 and recorded September 28, 2001 as Document No. 2001 078311 made by and between Target Corporation (formerly known as Dayton Hudson Corporation) and Acme Markets, Inc., a Delaware corporation (successor by merger to Acme Markets, Inc., a Pennsylvania corporation).
NOTE: The Third Amendment to Operating and Easement Agreement does not affect this property.

Tax Parcel No. 45-07-33-351-003.000-026

10343 Indianapolis Boulevard, Highland, Indiana 46322