

2019-011759

Klamath County, Oregon

10/08/2019 03:30:02 PM

Fee: \$122.00



SNDA

This instrument prepared by  
and after recording return to:  
Tammy Harper  
Dollar General Corporation  
100 Mission Ridge  
Goodlettsville, TN 37072

Dollar General Store No. 18282  
Crescent, Oregon

**SUBORDINATION, ATTORNMENT AND  
NON-DISTURBANCE AGREEMENT**

This Subordination, Attornment and Non-Disturbance Agreement ("Agreement") made to be effective this 9<sup>th</sup> day of October, 2019, by and between DG Retail, LLC, a Tennessee limited liability company ("Tenant"), and, First United Bank and Trust Company, ("Mortgagee").

**STATEMENT OF PURPOSE**

1. Mortgagee is the holder of a deed of trust, dated Oct. 7, 2019 ("Mortgage") on the real estate described on Exhibit A attached hereto and incorporated herein by reference, which Mortgage is recorded in the Office of the Clerk of Klamath County, Oregon.
2. Tenant and CD DG Crescent, LLC, ("Landlord") have entered into that certain lease dated November 11, 2016, (the "Lease").
3. Tenant and Mortgagee desire to confirm their understanding with respect to the lease and the Mortgage.

## AGREEMENT

NOW, THEREFORE, in consideration of mutual covenants and agreements, together with \$1.00 and other valuable consideration, the adequacy, sufficiency and receipt of which are hereby acknowledged by the parties, Mortgagee and Tenant hereby agree and covenant as follows:

1. The Lease shall be subject and subordinate to the Mortgage and to all renewals, modifications or extensions thereof.
2. Provided Tenant is not in material default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of its terms, covenants or conditions of the Lease to be performed by Tenant, (i) Tenant's rights and privileges under the Lease shall not be diminished or interfered with by Mortgagee; (ii) Tenant's occupancy of the Demised Premises shall not be disturbed by Mortgagee for any reason whatsoever during the Lease term; (iii) Mortgagee shall not in any manner disaffirm the Lease; and (iv) Tenant shall not be named a party to any foreclosure proceeding unless required by state law.
3. If the interests of Landlord are transferred to Mortgagee by reason of foreclosure or other proceedings brought by Mortgagee and Mortgagee succeeds to the interest of Landlord under the Lease, Tenant shall be bound to Mortgagee under all of the terms, covenants and conditions of the Lease for the balance of the Lease Term with the same force and effect as if Mortgagee were Landlord under the Lease, and Tenant does hereby attorn to Mortgagee as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Mortgagee succeeding to the interest of Landlord under the Lease. Tenant shall be under no obligation to pay rent to Mortgagee until Tenant receives written notice from Mortgagee that it has succeeded to the interest of Landlord under the Lease. Tenant may rely on such written notice and begin paying rent to Mortgagee without taking further action and Tenant shall incur no liability to Landlord in the event Tenant relies in good faith on such written notice to begin rent payments to Mortgagee. The respective rights and obligations of Tenant and Mortgagee upon such attornment (including, but not limited to, the disposition of fire insurance proceeds and/or condemnation awards), to the extent of the then remaining balance of the Lease Term shall be and are the same as set forth in the Lease, it being the intention of the parties to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth herein.

4. If Mortgagee succeeds to the interest of Landlord under the Lease, Mortgagee shall assume Landlord's obligations under the Lease and be bound to Tenant under all terms, covenants and conditions of the Lease, and Tenant shall, from and after Mortgagee's succession to the interest of Landlord under the Lease, have the same remedies against Mortgagee for the breach of any provision contained in the Lease after the date of Mortgagee's succession to the interest of Landlord under the Lease that Tenant might have had under the Lease against Landlord if Mortgagee had not succeeded to the interest of Landlord.
5. All notices, consents and other communications pursuant to the provisions of this Agreement shall be given and deemed to have been properly served if delivered in writing (i) by certified mail, (ii) by a nationally recognized overnight courier providing signed proof of delivery or refusal thereof, or (iii) by facsimile; provided that a second copy of such notice is given by another method provided for herein on the date of the facsimile notice. Notices shall addressed as follows:

If to Mortgagee:	<u>FIRST UNITED BANK AND TRUST COMPANY</u> <u>P.O. BOX 130</u> <u>DURANT, OK 74701</u>
ATTN:	<u>BRANDON BREWER</u>
If to Tenant:	<u>DG RETAIL, LLC.</u> <u>100 MISSION RIDGE</u> <u>GOODLETTSVILLE, TN 37072</u>
ATTN:	<u>DIRECTOR OF LEASE COMPLIANCE AND</u> <u>RENEWALS</u>
with a copy to:	<u>DG RETAIL, LLC.</u> <u>100 MISSION RIDGE</u> <u>GOODLETTSVILLE, TN 37072</u>
ATTN:	<u>GENERAL COUNSEL</u> <u>FACSIMILE: (615) 855-4663</u> <u>TELEPHONE: (615) 855-4000</u>

Date of service of a notice served by mail shall be the date which is three (3) days after the date on which such notice is deposited in a post office of the United States Post Office Department, certified mail, return receipt requested. Date of service by any other method shall be the date of receipt. Each party may designate a change of address by notice to the other party, given at least fifteen (15) days before such change of address is to become effective. Final execution and delivery of this Agreement is in the State of Tennessee and shall be construed in accordance with the laws of the state where the Demised Premises are located, notwithstanding its conflict of laws provisions.

6. The Lease now is, and shall at all times continue to be, subject and subordinate in each and every respect, to the Mortgage and to any and all renewals, modifications and extensions, but any and all such renewals, modifications and extensions shall nevertheless be subject to and entitled to the benefits of the terms of this Agreement.
7. This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by both parties hereto or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.
8. Capitalized terms not defined herein shall have the definitions given them in the Lease.
9. Tenant hereby executes and agrees to the provisions of this Subordination, Attornment and Non-Disturbance Agreement as of the date hereof, which approval shall be null and void if a fully executed and recorded original of this agreement shall not be received by Tenant no later than sixty (60) days from the date of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunder caused this Agreement to be duly executed on the dates shown hereinafter below.

DATE: October 3, 2019

TENANT: DG RETAIL, LLC.

Witness Signature:

Annette Whitley BY:

Witness Print:

Annette Whitley

Witness Signature:

JESSICA HERRELL

Witness Print:

Jessica Herrell

Dana Francis

NAME: DANA FRANCIS

ITS: DIRECTOR OF LEASE COMPLIANCE  
AND RENEWALS

DATE: \_\_\_\_\_

MORTGAGEE: FIRST UNITED BANK  
AND TRUST COMPANY

Witness Signature:

\_\_\_\_\_

BY:

Witness Print:

\_\_\_\_\_

Witness Signature:

\_\_\_\_\_

Witness Print:

\_\_\_\_\_

\_\_\_\_\_

NAME:

ITS:

\_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have hereunder caused this Agreement to be duly executed on the dates shown hereinafter below.

DATE: October 3, 2019

TENANT: DG RETAIL, LLC.

Witness Signature:

Annelle Whitley

BY:

Dana Francis

Witness Print:

Annelle Whitley

NAME: DANA FRANCIS

Witness Signature:

JESSICA HERRELL

ITS: DIRECTOR OF LEASE COMPLIANCE  
AND RENEWALS

Witness Print:

Jessica Herrell

DATE: October 3, 2019

MORTGAGEE: FIRST UNITED BANK  
AND TRUST COMPANY

Witness Signature:

Daniel White

BY:

Brandon Brewer

Witness Print:

Daniel White

NAME: Brandon Brewer

Witness Signature:

Nicholas McCune

ITS:

VP

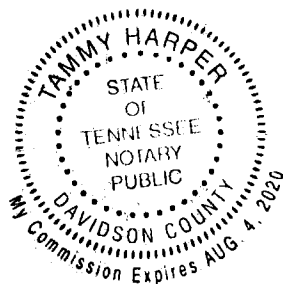
Witness Print:

Nicholas McCune

STATE OF TENNESSEE    )  
  ) SS  
COUNTY OF DAVIDSON    )

Before me, the undersigned Notary Public of the State and County aforesaid, personally appeared Dana Francis with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence and who, upon oath, acknowledged herself to be the Director of Lease Compliance and Renewals of DG Retail, LLC, a Tennessee limited liability company, and that she as Director of Lease Compliance and Renewals, being authorized to do so, executed the Subordination, Attornment and Non-Disturbance Agreement for the purpose therein contained, by signing the name of the corporation by herself as such Director of Lease Compliance and Renewals as her own free act and deed.

Witness my hand, at office this 3<sup>rd</sup> day of October, 2019.



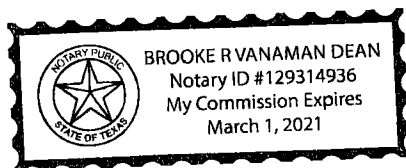
Tammy Harper  
Notary Public

My commission: 8-4-2020

STATE OF Texas )  
 ) SS  
COUNTY OF Collin )

I, the undersigned authority, a Notary Public in and for said State and County,  
hereby certify that Brandon Brewer, whose name as VP of  
First United Bank, is signed to the foregoing instrument, and who is known to me,  
acknowledged before me on this day that, being informed of the contents of the above and  
foregoing instrument, he as such officer and with full authority, executed the same voluntarily for  
and as the act of said bank.

Given under my hand and seal this 3rd day of Oct, 2019.



Brooke R. Vanaman Dean  
Notary Public

My commission expires: 3.1.21



EXHIBIT A

Legal Description

Parcel 1 of Land Partition 41-17, a Partition of the lands shown in Survey No. 2570 as described in Document No. 2017-010196 situated in the Northeast quarter of the Southwest quarter of Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon. Being recorded on April 4, 2018 as document 2018-004085 records of the Klamath County Clerk.