

2022-007467

Klamath County, Oregon



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06/15/2022 02:53:15 PM

Fee: \$122.00

WHEN RECORDED SEND TO:

STANCORP MORTGAGE
INVESTORS, LLC.

10265 NE Tanasbourne Drive

Hillsboro, OR 97124

Attn: Holly Nakada, T3A

JIB 7171 (Space above this line for Recorder's Use only)

3025306
B9030103

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

NOTICE: THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT RESULTS IN THE LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT (this Agreement), dated this 31st day of May, 2022, is by and between **JACK IN THE BOX INC., a Delaware corporation**, whose address is 9357 Spectrum Center Blvd, Attn: RE Legal JIB 7171, San Diego, CA 92123 ("Tenant"), and **STANDARD INSURANCE COMPANY, an Oregon corporation**, whose address is 10265 NE Tanasbourne Drive, Hillsboro, OR 97124 ("Lender").

RECITALS:

A. Tenant is the original tenant under that certain lease executed between **JDS INVESTMENTS, a California general partnership**("Landlord") and Tenant, dated April 28, 2022 (the lease and all amendments thereto are hereinafter collectively referred to as the "Lease"), covering the real property legally described in Exhibit A (attached hereto and made a part hereof), which real property is hereafter referred to as the "Premises".

B. Landlord is the present owner of the Premises, and the current landlord under the Lease.

C. Lender is making a loan (the "Loan") to Landlord which is or will be secured, in part, by the lien of a deed of trust executed and delivered by Landlord to Lender, as beneficiary, encumbering the Premises and an assignment of the leases and rents from the Premises in favor of Lender, as beneficiary (the "Deed of Trust").

D. As a condition precedent to making the Loan, Lender is requiring that the Deed of Trust shall unconditionally be and remain at all times a lien or charge upon the Premises prior and superior to the Lease and the leasehold estate created thereby. To this end, Tenant will specifically and unconditionally subordinate the Lease and the leasehold estate created thereby, together with all rights and privileges of Tenant thereunder, to the Deed of Trust.

E. The parties hereto desire to effect the subordination of the Lease to the Deed of Trust and to provide for the non-disturbance of Tenant by Lender, subject to the terms and conditions of this Agreement. The term "Lender" as used herein shall also be deemed to include: (i) Any lender who executes this Agreement and subsequently acquires title to the Premises pursuant to a bankruptcy proceeding involving Landlord, (ii) any successor or assignee of Lender, and (iii) any purchaser at a foreclosure sale, whether judicial or non-judicial.

F. As a condition to making the Loan, Lender requires that Tenant enter into this Agreement.

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Deed of Trust in favor of Lender, along with any renewals, modifications, or extensions thereof, shall unconditionally be, and remain, at all times, a lien or charge on the Premises prior and superior to the Lease, to the leasehold created thereby. The Lease, the leasehold interest created thereby, and all terms of the Lease are and shall be subordinate to the Deed of Trust, and to all amendments, modifications, replacements and extensions thereof, to the full extent of the principal, interest, fees, expenses and all other amounts secured thereby.

2. Lender would not make the above-described loan without this Agreement, fully executed.

3. In the event Lender elects to foreclose the Deed of Trust, Lender will not join Tenant in summary or foreclosure proceedings unless required by applicable law (and then only to the extent so required) as long as Tenant is not in default under the Lease, beyond any notice and cure period provided in the Lease, beyond any notice and cure period provided in the Lease.

4. In the event that Lender shall succeed to the interest of Landlord under the Lease, and as long as there exists no default by Tenant under the Lease, Lender agrees not to disturb or otherwise interfere with Tenant's possessions of the Premises for the unexpired term of the Lease including options, provided that Lender shall not be:

(a) Liable for any act or omission of Landlord or any prior landlord under the Lease, unless such act or omission constitutes an ongoing or uncured default;

(b) Subject to any offsets or defenses which Tenant might have against Landlord or any prior landlord, unless such offsets or defenses arise in connection with any ongoing or uncured default, or except for rights expressly set forth in the Lease;

(c) Bound by any rent or additional rent which Tenant might have paid for more than the current month to Landlord or any prior landlord;

(d) Liable for the refund of any payments, taxes, assessments, common area maintenance fees, insurance, or similar payments, except to the extent Lender has actually received such monies from Tenant;

(e) Liable for any security deposit Tenant might have paid to Landlord or any prior landlord, except to the extent Lender has actually received said security deposit;

(f) Bound by any surrender, cancellation, or termination of the Lease, in whole or in part unless the Lease expressly grants to Tenant the right to terminate or cancel the lease in such circumstances; or

(g) Bound by any modification or amendment of the Lease that would reduce the rent, shorten the term, or increase the obligations of either part without the Lender consent.

5. Upon Lender's succeeding to Landlord's interest under the Lease, Tenant covenants and agrees to attorn to Lender or a purchaser at a foreclosure or trustee's sale, to recognize such successor landlord as Tenant's landlord under the Lease, and to be bound by and perform all of the obligations and conditions imposed upon Tenant by the Lease. If Lender shall become the owner of the Premises or the Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Deed of Trust or the Premises shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct Lease between the then owner of the Premises, who shall succeed to the rights and duties of the Landlord and Tenant. Tenant shall attorn to Lender or any other such owner as its landlord and such attornment shall be effective and self-operative without the execution of any further instruments. Tenant agrees that upon the occurrence of any default under the loan from Lender to Landlord or the documents evidencing or securing the same, and in the event of a written demand on Tenant by Lender, or its successors and assigns, for the payment to the Lender or its successors and assigns, of the rent due under the Lease, Tenant shall pay the rent and all other amounts due under the Lease to Lender, and Landlord hereby consents to said payment and releases Tenant from any and all liability, damages, or claims in connection with any such payments to Lender. Landlord and Tenant agree that the receipt by Tenant of any such demand shall be conclusive evidence of the right of Lender to the receipt of such rental and other payments under the Lease.

6. Prior to terminating the Lease due to a default by Landlord thereunder, Tenant agrees to notify Lender of such default and give Lender the same opportunity given the Landlord under the Lease to cure such default.

7. Notwithstanding the foregoing subordination provisions, Lender acknowledges and agrees that any insurance proceeds following a casualty and (or) the proceeds of any award resulting from a condemnation or deed in lieu thereof shall be used and applied in accordance with the provisions of the Lease.

8. This Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representative, successor and assigns of the parties hereto.

9. This Agreement can be modified only in writing duly executed by all parties.

10. All notices or communications hereunder to Lender shall be in writing and shall be sent by overnight courier or by United States registered or certified mail, with return receipt requested, postage prepaid to Lender, at the address appearing below (or at such other address as shall be given in writing by Lender to Tenant and Landlord);

“LENDER”

Standard Insurance Company
Holly Nakada
Attn: Loan Closing, T3A
10265 NE Tanasbourne Drive
Hillsboro, OR 97124

“TENANT”

Jack in the Box Inc.
Attn: Real Estate Legal/JIB 7171
9357 Spectrum Center Blvd
San Diego, CA 92123

“LANDLORD”

JDS Investments
Attn: Nancy Selik Pritchard
20544 Deforest Street
Woodland Hills, CA 91364-2401

Any notice or communication sent pursuant to the terms hereof shall be deemed received, if sent by overnight service, one (1) business day after sent, or if sent by mail, upon actual receipt. Any notice or communication sent by Tenant or Landlord to Lender pursuant to the terms hereof shall reference this Agreement, the Lease, and the Property.

11. Attorney Fee's. If any legal action, suit or proceeding is commenced between the Tenant, Landlord and Lender regarding their respective rights and obligations under this Agreement, the prevailing party shall be entitled to recover, in addition to damages or other relief, costs and expenses, reasonable attorneys' fees and court costs (including, without limitation, expert witness fees). As used herein, the term "prevailing party" shall mean the party which obtains the principal relief it has sought, either by a compromised settlement or judgment. If the party which commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

NOTICE: THIS SUBORDINATION, ATTORNMENMENT AND NON-DISTURBANCE AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON(S) OBLIGATED ON YOUR LEASE TO OBTAIN A LOAN, ALL OF WHICH LOAN PROCEEDS MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

"TENANT":

JACK IN THE BOX INC., a Delaware corporation

By: _____

Name: Michael J. Snider

Its: Assistant Secretary

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Diego)

On May 5, 2022 before me, Holly Johnson, Notary Public, personally appeared Michael J. Snider

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Holly Johnson

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached: SNDA 7171

Document Date: 5/5, 2022

"LENDER":

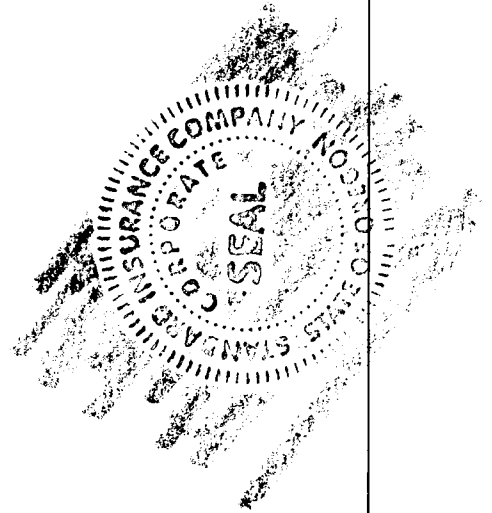
**STANDARD INSURANCE COMPANY,
an Oregon corporation**

By: _____

Name: Amy Frazey, Assistant Vice President,
Standard Insurance Company

Attest: _____

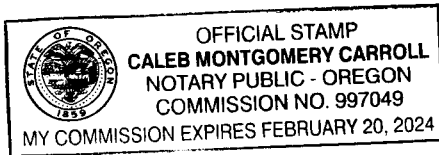
Name: Jason F. Wells, Director
StanCorp Mortgage Investors, LLC




STATE OF OREGON)
) ss:
COUNTY OF WASHINGTON)

On this 20th day of April, 2022, before me, Caleb Montgomery Carroll, appeared AMY FRAZEY and JASON F. WELLS, both to me personally known, who being duly sworn did say that she, the said AMY FRAZEY is the Assistant Vice President of STANDARD INSURANCE COMPANY, an Oregon corporation, the within named corporation, and that the seal affixed to said document is the corporate seal of said corporation, and that the said document was signed and sealed in behalf of said corporation by authority of its Board of Directors, and he, the said JASON F. WELLS is the Director of STANCORP MORTGAGE INVESTORS, LLC, an Oregon limited liability company, as Servicer for STANDARD INSURANCE COMPANY and AMY FRAZEY and JASON F. WELLS acknowledged said document to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year last above written.





Caleb Montgomery Carroll
Notary Public for Oregon
My Commission Expires: February 20, 2024

"LANDLORD":

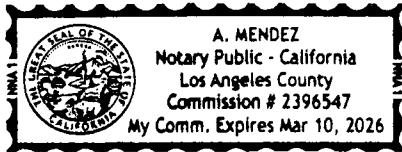
JDS INVESTMENTS, a California general partnership

By: Nancy Selik Pritchard
Name: Nancy Selik Pritchard
Its: Managing Partner

STATE OF California)
COUNTY OF Los Angeles) ss

On 04/22/22, before me, A. Mendez, a Notary Public in and for said County and State, personally appeared Nancy Selik Pritchard, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument, and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity/ies, and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



A. Mendez
Notary Public

EXHIBIT "A"
PREMISES

Parcel 1 of Land Partition 57-07 being a replat of Lots 1 and 4, Block 1, TRACT 1239 and a replat of Parcel 2 of Land Partition 7-97 located in the NE 1/4 of the NE 1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

TOGETHER with a Public Access Easement recorded June 12, 2018 in Instrument 2018-007122, Records of Klamath County, Oregon.