

PREPARED BY/RETURN TO:
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P BK104 PG237

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FOR RECORDER'S USE ONLY

PREPARED BY:

Tiffany Sterling
Merrill Lynch Business Financial
Services Inc.
222 North LaSalle Street
17th Floor
Chicago, Illinois 60601

TENANT SUBORDINATION AGREEMENT

MADE BY

SUNRISE BUILDERS SUPPLY, INC.
TENANT

FOR THE BENEFIT OF

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.
MLBFS

STATE MS.-DESOTO CO. ^{P3}
AUG 11 4 09 PM '04 ^{P2}

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BRIAN L. DAVIS CH. CLK.





TENANT SUBORDINATION AGREEMENT

TENANT SUBORDINATION AGREEMENT (Agreement") dated as of April 5, 2004 made by **SUNRISE BUILDERS SUPPLY, INC.** ("Tenant") for the benefit of **MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.** ("MLBFS").

Pursuant to one or more leases (as amended, extended or restated from time to time, and whether oral or written, the "Lease"), Tenant has leased from **WILLIAM W. BOND, III** ("Landlord") all or a portion of the real property and improvements thereon commonly known as 2302 NAIL ROAD, Horn Lake, MS, and more fully described on Exhibit A attached hereto (the "Property"). Landlord has requested MLBFS to provide one or more credit facilities to or for the benefit of Landlord or an affiliated person or entity, which credit facilities will be secured by a deed of trust upon the Property, and MLBFS has agreed to provide such credit facilities subject to, among other conditions, this Agreement being executed and delivered by Tenant.

Accordingly, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

(1) **Representations Regarding Lease.** Tenant represents and warrants to MLBFS that (a) Tenant is in continuous possession of the premises leased under the Lease; (b) Tenant is, and, to the knowledge of Tenant, the Landlord is in full compliance with the terms and provisions of the Lease; (c) no default or event of default under the Lease exists or would exist with the giving of notice by one party to the other and/or the passage of time; (d) Tenant has no offsets or defenses to Tenant's performance under the Lease; (e) Tenant does not have the option to purchase the Property or any part thereof; (f) no rentals are accrued and unpaid under the Lease or have been prepaid by Tenant; and (g) Tenant has not assigned, sublet or otherwise transferred or disposed of any interest in the Lease or the premises leased under the Lease.

(2) **Subordination of Lease.** Tenant agrees that all of Tenant's rights, title and interests in and under the Lease are and shall be subordinate to the lien and rights, title and interests of MLBFS in and to the Property, in the same manner as if the Lease had been entered into after the execution, delivery and recording of MLBFS' deed of trust on the Property. Without limiting the foregoing, Tenant agrees that in connection with any foreclosure of MLBFS' deed of trust on the Property, MLBFS shall have the right to terminate the Lease and Tenant's rights thereunder.

(3) **Attornment.** Notwithstanding the foregoing subordination, at the election of MLBFS at the time of any foreclosure of MLBFS' deed of trust, the Lease may be made prior to the lien of MLBFS' deed of trust. In such event, Tenant agrees that: (a) it will attorn to MLBFS or any purchaser of the Property at a foreclosure sale as its new landlord, and (b) the Lease will continue in full force and effect as a direct lease between the Tenant and MLBFS or such purchaser, for the remaining term and upon all other terms and conditions set forth in the Lease; provided, however, that in no event will MLBFS any purchaser of the Property at a foreclosure sale be: (i) liable for any act or omission of Landlord; (ii) subject to any offsets or deficiencies which the Tenant might be entitled to assert against Landlord; or (iii) bound by any payment of rent or additional rent made by the Tenant to Landlord for more than one month in advance of such foreclosure.

(4) **Amendment; Modifications.** This Agreement may not be amended or modified other than by a written instrument signed by both MLBFS and Tenant, or by their respective successors in interest.

(5) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of MLBFS and Tenant and their respective successors and assigns.

(6) **Warranty of Authority.** Each party signing this Agreement on behalf of Tenant personally warrants to MLBFS that he or she has the full right, power and authority to do so, and that by signing this Agreement is binding Tenant hereto.

IN WITNESS WHEREOF, the authorized representatives of Tenant have executed this Agreement as of the day and year first set forth above.

SUNRISE BUILDERS SUPPLY, INC.

By: William W. Bond III _____
 Signature (1) Signature (2)

WILLIAM W. BOND III _____
 Printed Name Printed Name

President _____
 Title Title

Acknowledgment for Tenant

STATE OF Tennessee }
 COUNTY OF Shelby } SS.

The Undersigned, a Notary Public in and for said County in the State aforesaid, **DOES HEREBY CERTIFY THAT** William W Bond III and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as President and _____, respectively, of **SUNRISE BUILDERS SUPPLY, INC.** and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered said instrument as their own free and voluntary act, and as the free and voluntary act of said entity for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 14th day of April AD, 2004

Madonna F. Desio
 NOTARY PUBLIC

My Commission Expires: 11-21-06



**EXHIBIT A
ATTACHED TO AND PART OF TENANT SUBORDINATION AGREEMENT MADE BY
SUNRISE BUILDERS SUPPLY, INC. FOR THE BENEFIT OF MERRILL LYNCH BUSINESS
FINANCIAL SERVICES INC.**

Record Owner of Property: WILLIAM W. BOND, III

**Common Address of Property: 2302 NAIL ROAD
Horn Lake, MS**

Legal Description of Property: See attached.

A 19.9833, more or less, acre tract of land being located in Part of the Southwest Quarter and Part of the Southeast Quarter of the Southeast Quarter of Section 34, Township 1 South, Range 8 West, Horn Lake, DeSoto County, Mississippi and being the same property as recorded in Warranty Deed Book 82, Page 221 in the Chancery Clerk's office, DeSoto County, Mississippi as is further described by metes and bounds as follows:

Beginning at an iron stake (set) in the present easterly line of Hurt Road (90 ft. wide), said stake being North 05 degrees 30' 56" West 661.16 feet and North 85 degrees 45' 00" East 40.01 feet from the Southwest corner of the Southeast Quarter of Section 34, Township 1 South, Range 8 West, said stake being also the Southwest corner of the Dover Elevator tract; thence North 85 degrees 45' 00" East 1423.00 feet along an existing fence and along the southerly line of said Dover tract to an iron stake (found) in the westerly line of the Thomas Edward Gibbs tract and at the southeast corner of said Dover tract; thence South 04 degrees 30' 00" East 607.50 feet along the westerly line of said Gibbs tract to an iron stake (set) in the northerly line of Nail Road (80 ft. wide); thence South 85 degrees 13' 00" West 1412.00 feet with the northerly line of said road to an "Cotton-Picker" Spindle (set) at the present intersection of the northerly line of Nail Road and the easterly line of Hurt Road; thence North 05 degrees 30' 56" West 620.79 feet with the easterly line of said road to the point of beginning containing 19.9832, more or less, acres of land (870,473 more or less, square feet) being subject to all codes, regulations and revisions, easements and right-of-ways of record.