

6/27/06 10:03:30
P BK 114 PG 512 pa
DE SOTO COUNTY, MS pa
W.E. DAVIS, CH CLERK

UPON RECORDATION RETURN TO:
LANDAMERICA COMMERCIAL SERVICES
450 S. Orange Avenue, Suite 170
Orlando, Florida 32801
Attn: Chris Conrad 06-355

INDEXING INSTRUCTIONS: The land subject to this instrument is Lot 1A and part of Lots 1B and 1C, First Revisions of Lot 1, South View Commercial Park Subdivision, Section 13, Township 1 South, Range 8 West, DeSoto County, Mississippi.

THIS INSTRUMENT WAS PREPARED BY:
DALE A. BURKET, ESQUIRE
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 N. Eola Drive
Orlando, Florida, 32801
(407) 843-4600

SPACE ABOVE THIS LINE FOR RECORDER'S USE

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

THIS AGREEMENT, made and entered into as of June 20, 2006, by and between **WELLS FARGO BANK, N.A.**, a national banking association, whose address is CMBS Department, 1015 Tenth Avenue S.E. Minneapolis, Minnesota 55414 (hereinafter referred to as the "Lender"), **CHECKERS DRIVE-IN RESTAURANTS, INC.**, a Delaware corporation, whose address is 4300 West Cypress Street, Suite 600, Tampa, Florida 33607 including its successors and assigns (hereinafter referred to as the "Tenant"), and **CNL NET LEASE FUNDING 2003, LLC**, a Delaware limited liability company, whose address is CNL Center at City Commons, 450 South Orange Ave., Orlando, Florida 32801 (hereinafter referred to as the "Landlord");

WITNESSETH:

WHEREAS, Lender is the holder of a mortgage loan (hereinafter referred to as the "Loan") to Landlord, which Loan is secured by, inter alia, a Deed of Trust and Security Agreement executed by Landlord to and in favor of Lender (hereinafter referred to as the "Mortgage"), encumbering Landlord's real property located at 938 W. Stateline Road, Southaven, in De Soto County, Mississippi and more particularly described on Exhibit "A" attached hereto (hereinafter referred to as the "Premises"); and

WHEREAS, Landlord has leased the Premises to Tenant by Lease dated June 20, 2006; and

WHEREAS, Lender, in connection with the Loan, requires that the Lease and all of the rights of Tenant thereunder be subordinated to the Mortgage and all of the rights of Lender thereunder; and

WHEREAS, Tenant desires to receive certain assurances that its possession of the Premises will not be disturbed in the event of a foreclosure of the Mortgage or otherwise with respect to the Mortgage and the Loan, and Lender is willing to grant certain assurances upon the terms and conditions hereinafter set forth;

0914097/122654/958330: Checkers #6221
Southaven, De Soto County, Mississippi

Wells Fargo

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants herein contained and intending to be legally bound, hereby covenant and agree as follows:

1. The Lease and all of the rights of Tenant thereunder shall be and are hereby declared to be and at all times hereafter shall be and remain subject and subordinate in all respects to the Mortgage and all of the rights of Lender thereunder. Notwithstanding such subordination, Lender hereby agrees that the Lease shall not terminate in the event that Lender succeeds to the rights of Landlord through possession of the Premises, a foreclosure of the Mortgage, delivery of a deed in lieu of foreclosure or otherwise, or another person purchases the Premises upon or following foreclosure of the Mortgage. Upon receipt of written notice, Tenant agrees to attorn to and to recognize Lender (as mortgagee in possession or otherwise), or the purchaser at such foreclosure sale (either being referred to herein as a "Successor Landlord") as Tenant's landlord under the Lease for the balance of the term of the Lease in accordance with the terms and provisions thereof, but subject, nevertheless, to the provisions of this Agreement, which Agreement shall be controlling in the event of any conflict.

2. Lender hereby agrees with Tenant that, so long as the Lease is in full force and effect, Tenant's possession of the Premises under the Lease shall not be disturbed or interfered with or deprived by Lender, including, without limitation, as a result of Lender's entry or foreclosure of the Mortgage, or exercise of a power of sale under the Mortgage or acceptance of a deed in lieu of foreclosure or sale of the Premises. Tenant may be named or joined in any foreclosure action without in any way diminishing or otherwise affecting the rights granted to Tenant under the Lease or this Agreement; provided, however, if Tenant is not in default under the Lease beyond the expiration of any applicable cure period, (i) Lender shall not seek to terminate Tenant's rights granted to or inuring to the benefit of Tenant under the Lease or this Agreement, and (ii) none of Tenant's rights under the Lease or this Agreement shall be impaired or otherwise affected. Any sale of the Premises pursuant to the exercise of any rights under the Mortgage or otherwise shall be made expressly subject to Tenant's rights under the Lease.

3. Tenant hereby agrees that Lender, and any Successor Lender that is not a Truststreet Affiliate (as defined in the Lease), shall not be (a) liable for any act or omission of Landlord under the Lease, (b) subject to any offsets or defenses which Tenant may have at any time hereafter against Landlord unless expressly set forth in the Lease, (c) bound by any rent which Tenant may have paid to Landlord for more than the current month, and (d) bound by any amendment or modification of the Lease made without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, nothing herein shall be deemed to affect Tenant's or Successor Landlord's rights or obligations under the Lease for the period following that date on which Successor Landlord succeeds to the interest of Landlord under the Lease.

4. Tenant hereby agrees that any Successor Landlord shall be liable only for the performance of the obligations of the Landlord under the Lease which arise and accrue during the period of such entity's or person's ownership of the Premises.

5. Tenant hereby agrees that, thirty (30) days before exercising any of its rights and remedies under the Lease in the event of any default by Landlord under the Lease that would give Tenant the right to terminate the Lease or offset or abate the rent payable thereunder, Tenant

shall send written notice to Lender thereof at the address set forth above, by certified mail, return receipt requested, describing in such notice with reasonable specificity the events constituting such default, and, any provision of the Lease to the contrary notwithstanding, no such cancellation or offset or abatement of rent shall be effective unless Lender shall have received notice in the form and manner required by the provisions of this paragraph, and Lender or Landlord shall have failed within thirty (30) days of the date of receipt of such notice to cure or cause to be cured, or if such default cannot be cured within such thirty (30) day period, shall have failed to commence and diligently prosecute the cure of, such default. Except as expressly set forth herein, nothing in this Paragraph 5 shall be deemed to limit the rights or remedies that Tenant may have against Landlord in connection with a default by Landlord under the Lease.

6. Lender agrees that, notwithstanding any provision contained in the Mortgage or other Loan Documents to the contrary, the terms of the Lease shall govern with respect to the disposition of any insurance proceeds or condemnation or eminent domain awards.

7. This Agreement shall supersede, as between the parties hereto, all of the terms and provisions of the Lease or Mortgage which are inconsistent herewith.

8. This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by the parties hereto, or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and assigns. Each party to this Agreement represents and warrants to the other parties hereto that the execution and delivery of this Agreement has been duly authorized and that this Agreement shall be binding upon said party in accordance with its terms.

9. The parties acknowledge that, in accordance with Paragraph 37 of the Lease, Tenant has the right to execute a Leasehold Mortgage encumbering its interest in the Lease and the Premises. By executing below, Lender acknowledges and agrees that, in the event that a Leasehold Lender (or its successor) succeeds to the rights of Tenant under the Lease, such Leasehold Lender (or its successor) shall be entitled to all of the rights of Tenant under this Agreement.

10. This Agreement shall be construed in accordance with the laws of the State in which the Premises are located, without giving effect to the principals of conflicts of law.

11. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one Agreement.

[SIGNATURE BEGIN ON NEXT PAGE]

The parties hereto have caused this Agreement to be duly executed as of the day and year first above written, below each Party's signature, to be effective as of the date and year first above written.

"LENDER"

WELLS FARGO BANK, N.A., a national banking association

By: [Signature]
Name: KAROLYN KLEINGARTNER
Title: Corporate Trust Officer

STATE OF MINNESOTA
COUNTY OF HENNEPIN

Personally appeared before me, the undersigned authority in and for the said county and state, on this 15 day of June, 2006, within my jurisdiction, the within named Karolyn Kleingartner, who acknowledged that (he) (she) is Corporate Trust Officer of WELLS FARGO BANK, N.A., a national banking association, and that for and on behalf of the said association, and as its act and deed (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said association so to do.

(NOTARY SEAL)



[Signature]
Notary Public, State of Minnesota

Printed Name: Minerva Joshua
Notary Commission No. 31005708
My Commission Expires: Jan 31, 2010

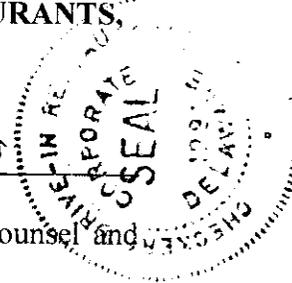
"TENANT"

CHECKERS DRIVE-IN RESTAURANTS, INC., a Delaware corporation

By: Brian R. Doster

Name: **Brian R. Doster**

As Its: Vice President, Corporate Counsel and Secretary



(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

12th Personally appeared before me, the undersigned authority in and for the said county and state, on this day of June, 2006, within my jurisdiction, the within named **Brian R. Doster**, who acknowledged that he is Vice President, Corporate Counsel and Secretary of **CHECKERS DRIVE-IN RESTAURANTS, INC.**, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

(NOTARY SEAL)

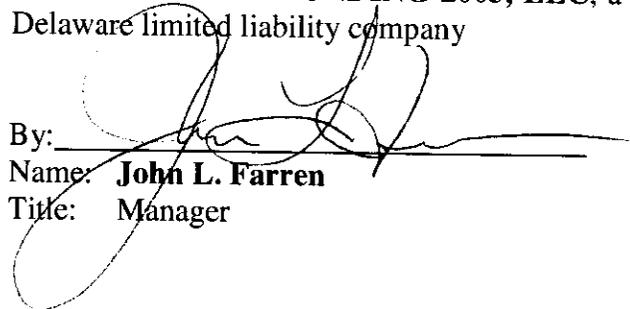


Leanna J. Gerken
Notary Public, State of Florida

Printed Name: Leanna J. Gerken
Notary Commission No. DD 194310
My Commission Expires: 7-18-07

"LANDLORD"

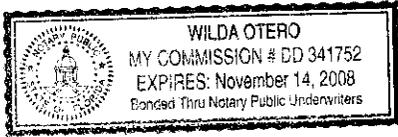
CNL NET LEASE FUNDING 2003, LLC, a Delaware limited liability company

By: 
Name: **John L. Farren**
Title: **Manager**

STATE OF FLORIDA
COUNTY OF ORANGE

Personally appeared before me, the undersigned authority in and for the said county and state, on this 14 day of June, 2006, within my jurisdiction, the within named **John L. Farren**, who acknowledged that he is Manager of **CNL NET LEASE FUNDING 2003, LLC**, a Delaware limited liability company, and that for and on behalf of the said limited liability company, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

(NOTARY SEAL)




Notary Signature
Name: Wilda Otero
Notary Public, State of Florida

EXHIBIT "A"**(Legal Description)**

938 W. Stateline Road, Southaven, De Soto County, Mississippi 38671

Lot 1a and Part of Lots 1b & 1c, Revision of First Revision of Lot 1, Southview Commercial park Subdivision in Section 13, Township 1 South, Range 8 West, DeSoto County Mississippi as recorded in Plat Book 9, Page 50 and being described in Record Book 176, page 593:

Beginning at an iron pin (set) in the north line of Stateline Road 137 feet westwardly from the west line of Southview Street, said point being in the west line of the Billy Vest & Mark Murphy Property as described in Record Book 227, Page 452; thence north 88 degrees 27 minutes 15 seconds west with the north line of Stateline Road 109.18 feet to an iron pin (set) in the east line of the RTM Winners, L.P. Property as described in Record Book 220, Page 171; thence north 0 degrees 21 minutes 45 seconds east with the east line of the RTM Winners, L.P. Property and with the east line of the Stateline Lumber Company Inc. Property as described in Record Book 158, Page 75, 270.59 feet to an iron pin (found); thence south 89 degrees 07 minutes 03 seconds east 114.89 feet to an iron pin (set); thence south 1 degree 34 minutes 12 seconds west, partly with the west line of said Billy Vest & Mark Murphy Property 271.86 feet to the point of beginning.

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