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Doc#: 0923018067 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/18/2009 04:40 PM Pg: 1 of 9

When recorded, return to:

JPMorgan Chase Bank Lease Administration
1111 Polaris Parkway, Suite 1J
Mail Code OH1-0241
Columbus, Ohio 43240
Attn: Lease Administration Manager

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT ("**Agreement**") is made and entered into as of the 5th day of August, 2009, by and among US BANK NATIONAL ASSOCIATION, a national banking association ("**Lender**"), METRO COMMONS, LLC, an Illinois limited liability company ("**Landlord**"), and JPMORGAN CHASE BANK, N.A., a national banking association ("**Tenant**").

WITNESSETH:

WHEREAS, Lender is now the owner and holder of that certain Promissory Note ("**Note**") dated June 10, 2008, in the principal sum of Thirty Five Million Three Hundred Fifty Thousand and No/100 Dollars (\$35,350,000.00), secured by a first priority Mortgage, Security Agreement and Assignment of Rents ("**Mortgage**"), dated of even date with the Note, to Lender, recorded on June 11, 2008, as Document No. 0816339069 in the Cook County Recorder of Deeds Office, which Mortgage constitutes a lien or encumbrance on the real property described in **Exhibit A** attached hereto and incorporated herein for all purposes, together with all improvements, appurtenances, other properties (whether real or personal), rights and interests described in the Mortgage ("**Property**") and Lender is the secured party pursuant to that certain Financing Statement recorded June 11, 2008 as Document No. 0816339071 in the Cook County Recorder of Deeds Office; and

WHEREAS, Tenant is the holder of a leasehold estate in and to a portion of the Property, being the tract of land more fully described in **Exhibit B** attached hereto and incorporated herein for all purposes (the property which is the subject of such leasehold estate, together with Tenant's appurtenant easements in the Property, being referred to as the "**Demised Premises**"), pursuant

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to the terms of that certain Ground Lease ("Lease") dated May 27, 2009, and executed by Tenant and Landlord; and

WHEREAS, Tenant, Landlord and Lender desire to confirm their understandings with respect to the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree and covenant as follows:

1. Non-Disturbance by Lender. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession and occupancy of the Demised Premises shall not be interfered with or disturbed by Lender during the term of the Lease or any extension thereof duly exercised by Tenant.

2. Attornment by Tenant. If the interests of Landlord in and to the Demised Premises are owned by Lender by reason of judicial foreclosure, private trustee sale or other proceedings brought by it or by any other manner, including, but not limited to, Lender's exercise of its rights under any collateral assignment(s) of leases and rents, and Lender succeeds to the interest of the Landlord under the Lease, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extension thereof duly exercised by Tenant with the same force and effect as if Lender were the Landlord under the Lease. Tenant does hereby attorn to Lender, 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 Lender's succeeding to the interest of the Landlord under the Lease; provided, however, that Tenant shall be under no obligation to pay rent to Lender until Tenant receives written notice from Lender that it has succeeded to the interest of the Landlord under the Lease. Landlord hereby authorizes and directs Tenant to deliver such payment to Lender upon receipt of such written notice and shall indemnify and hold Tenant harmless from any loss, cost, expense or claim incurred by Tenant in connection with its compliance with this provision. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extension, shall be and are the same as now set forth therein, it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference, with the same force and effect as if set forth at length herein.

3. Lender Bound by Terms of Lease. If Lender shall succeed to the interest of Landlord under the Lease, Lender shall be bound to Tenant under all of the terms, covenants and conditions of the Lease; provided, however, that Lender shall not be:

- (a) liable for the failure of any prior landlord (any such prior landlord, including Landlord and any successor landlord, being hereinafter referred to as a "Prior Landlord") to perform any of its obligations under the Lease which have accrued prior to the date on which Lender shall become the owner of the Property, provided that the foregoing shall not limit Lender's obligations under the Lease to correct any conditions that (i) existed as of the date Lender shall become the owner of the Property and (ii) violate Lender's obligations as landlord under the

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Lease; provided further, however, that Lender shall have received written notice of such omissions, conditions or violations and has had a reasonable opportunity to cure the same, all pursuant to the terms and conditions of the Lease;

- (b) subject to any offsets, defenses, abatements or counterclaims which shall have accrued in favor of Tenant against any Prior Landlord prior to the date upon which Lender shall become the owner of the Property, unless Lender has received notice of such offsets, defenses, abatements or counterclaims prior to such date;
- (c) liable for the return of rental security deposits, if any, paid by Tenant to any Prior Landlord in accordance with the Lease unless such sums are actually received by Lender;
- (d) bound by any payment of rents, additional rents or other sums which Tenant may have paid more than one (1) month in advance to any Prior Landlord unless (i) such sums are actually received by Lender or (ii) such prepayment shall have been expressly approved of by Lender; or
- (e) bound by any agreement terminating or amending or modifying the rent, term, commencement date or other material term of the Lease, or any voluntary surrender of the Demised Premises under the Lease, made without Lender's prior written consent prior to the time Lender succeeded to Landlord's interest, unless such amendment, modification, termination or voluntary surrender is contemplated in the Lease; or

4. Subordination of Lease. Subject to the terms of this Agreement (including, but not limited to, those in Paragraph 2), 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, extensions, substitutions, replacements and/or consolidations of the Mortgage.

5. Successors of Lender Also Included. The term "Lender" shall be deemed to include the Lender stated hereinabove and any of its successors and assigns, including anyone who shall have succeeded to Landlord's interest by, through or under judicial foreclosure or private trustee's sale or other proceedings brought pursuant to the Mortgage, or deed in lieu of such foreclosure or proceedings, or otherwise.

6. No Modification. This Agreement may not be modified orally or in any manner other than by an agreement, in writing, signed by the parties hereto and their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns.

7. Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective

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signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.

8. Notices. All notices or other communications required or permitted to be given pursuant to the provisions hereof shall be in writing and shall be deemed served and given at the time of (i) deposit in a depository receptacle under the care and custody of the United States Postal Service, properly addressed to the designated address of the addressee as set forth below, postage prepaid, registered or certified mail with return receipt requested or (ii) delivery to the designated address of the addressee set forth below by a third party commercial delivery service. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notices, the addresses of the parties shall be as follows:

Lender: US Bank National Association
209 South LaSalle Street, Suite 410
Chicago, Illinois 60604
Attn: Trevor B. Cain

Tenant: JPMorgan Chase Lease Administration
1111 Polaris Parkway, Suite 1J
Mail Code OH1-0241
Columbus, Ohio 43240
Attn: Lease Administration Manager

With a copy to: JPMorgan Chase Real Estate
131 South Dearborn, 5th Floor
Mail Code IL1-0930
Chicago, Illinois 60603-5506
Attn: Retail Portfolio Manager

JPMorgan Chase Law Department
1111 Polaris Parkway, Suite 4P
Mail Code OH1-0152
Columbus, Ohio 43240
Attn: Real Estate Counsel

Landlord: Metro Commons, LLC
c/o Par Development, Inc.
1240 Raymond Court
Huntley, Illinois 60142
Attn: Dan Shepard

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With a copy to: Stahl Cowen Crowley Addis LLC
 55 W. Monroe Street, Suite 1200
 Chicago, Illinois 60603
 Attn: Jeffrey J. Stahl

Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by notice to the other parties of such new address at least thirty (30) days prior to the effective date of such new address.

SIGNATURE PAGE TO FOLLOW

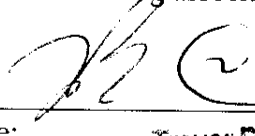
Property of Cook County Clerk's Office

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

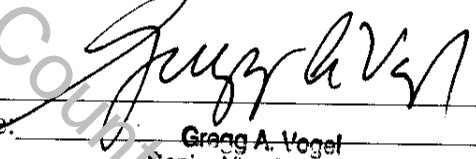
LENDER:

US BANK NATIONAL ASSOCIATION,
a national banking association

By: 
Name: Trevor B. Cain
Title: Vice President

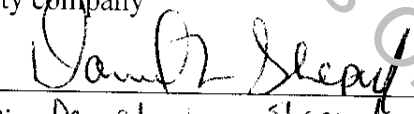
TENANT:

JPMORGAN CHASE BANK, N.A.,
a national banking association

By: 
Name: Gregg A. Vogel
Title: Senior Vice President

LANDLORD:

METRO COMMONS, LLC, an Illinois limited
liability company

By: 
Name: Daniel L. Shepard
Title: Executive Vice President

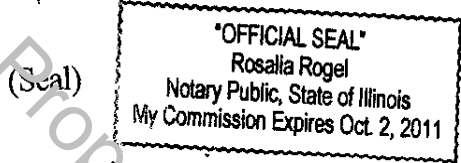
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STATE OF ILLINOIS

COUNTY OF COOK

This instrument was acknowledged before me on the 7TH day of JULY, 2009, by TREVOR CAIN, the VICE PRESIDENT of U.S. BANK N.A., a NATIONAL BANKING ASSOCIATION, on behalf of said NATIONAL BANKING ASSOCIATION.

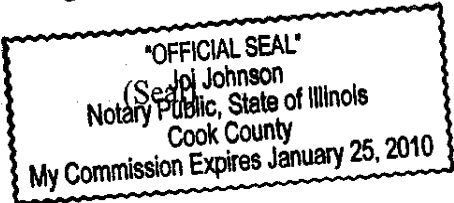


[Signature]
Notary Public

STATE OF ILLINOIS

COUNTY OF COOK

This instrument was acknowledged before me on the 5th day of August, 2009, by Gregg A. Vogel, the Senior Vice President of JPMORGAN CHASE BANK, N.A., a national banking association, on behalf of said national banking association.



[Signature]
Notary Public

STATE OF Illinois

COUNTY OF Kane

This instrument was acknowledged before me on the 9th day of July, 2009, by Daniel L. Shepard, the Executive Vice President of Metro Commons, LLC, a LLC, on behalf of said Metro Commons, LLC.

(Seal)

[Signature]
Notary Public



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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOTS 2 THROUGH 10, BOTH INCLUSIVE, IN METRO COMMONS, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN: 15-17-403-026-0000

Address: Vacant Land, Hillside, IL

PINS: 15-17-404-043, 044, 045, 046, 047-0000

Address: Vacant Land, Hillside, IL

PIN: 15-17-405-002, 0003, 0004-0000

Address: Vacant Land, Hillside, IL

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EXHIBIT B

LEGAL DESCRIPTION OF DEMISED PREMISES

LOT 9 IN METRO COMMONS RESUBDIVISION, BEING A RESUBDIVISION OF ALL OF LOTS 8 AND 10 AND PART OF LOT 9 IN METRO COMMONS, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID METRO COMMONS RESUBDIVISION RECORDED MAY 29, 2009 AS DOCUMENT 0914831048, IN COOK COUNTY, ILLINOIS.

PINS: 15-17-404-025-0000 (affects other land)

15-17-405-003-0000

part of 15-17-405-002-0000

Address: Vacant Land, Hillside, IL

Property of Cook County Clerk's Office