

UNOFFICIAL COPY

Loan Number 160000712

Recorded at Request of:

Legal Assistance Foundation of Metropolitan Chicago
Third Floor
111 West Jackson Boulevard
Chicago, Illinois 60603
Attention: Executive Director



Doc#: 1114710035 Fee: \$58.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 05/27/2011 02:50 PM Pg: 1 of 12

When Recorded Mail to:

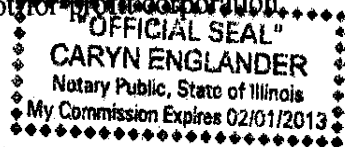
Caryn S. Englander, Esq.
DLA Piper LLP (US)
203 N. LaSalle Street
Suite 1900
Chicago, IL 60601

SUBORDINATION,

NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made as of May 18, 2011, by and among TR 120 S. LASALLE CORP., a Delaware corporation ("Borrower"), AXA EQUITABLE LIFE INSURANCE COMPANY, a New York corporation, ("Lender"), and LEGAL ASSISTANCE FOUNDATION OF METROPOLITAN CHICAGO, an Illinois not-for-profit corporation, ("Tenant"),

WITNESSETH:



WHEREAS, Lender has a loan to Borrower secured by a mortgage, deed of trust or other security instrument (the "Mortgage") from Borrower to Lender, recorded in the Official Records of the County of Cook, State of Illinois. The mortgage encumbers the real property (the "Property") in the County of Cook, State of Illinois, commonly known as 120 S. LaSalle St., Chicago, IL, which is described in Exhibit A attached hereto and made a part hereof. Tenant is the tenant under the Lease (the "Lease") dated May 18, 2011, between Borrower, as landlord, and Tenant, as tenant. Tenant leases a portion of the Property pursuant to the Lease. Borrower will assign or has assigned the Lease to Lender pursuant to the Mortgage.

NOW, THEREFORE, Borrower, Lender and Tenant agree as follows:

1. Subordination. The Lease is hereby made and shall at all times be subject and subordinate in all respects to the Mortgage and all indebtedness and obligations now or hereafter secured by the Mortgage, including, without limitation, all amendments, modifications, extensions, supplements, substitutions and replacements of the Mortgage and all advances made by Lender to Borrower secured by the Mortgage.

2. Nondisturbance. If there is a judicial foreclosure sale, a sale pursuant to the power of sale, or an acceptance of a deed in lieu of foreclosure under the Mortgage (any such event being a

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“Foreclosure Transfer”), the Lease shall not be terminated (or subject to termination) as a result of the Foreclosure Transfer, nor shall Tenant’s use, possession or enjoyment of the portion of the Property demised by the Lease be disturbed, so long as no default exists and no other event has occurred under the Lease that would give the landlord under the Lease the right to terminate the Lease or would cause automatic termination of the Lease. Tenant agrees that the person or entity, which may include Lender, and its successors and assigns, that acquires title to the Property by reason of a Foreclosure Transfer and succeeds to the interest of Borrower as landlord under the Lease (such person or entity being the “Foreclosure Transferee”) shall not be:

- (a) liable for any act or omission of Borrower or any other prior landlord under the Lease,
- (b) subject to any claim, charge, offset or defense under the Lease that Tenant might have against Borrower or any such prior landlord based on any act, omission, event or occurrence before the Foreclosure Transfer,
- (c) bound by any rent, additional rent or deposit that Tenant might have paid in advance to Borrower or any such prior landlord for more than the current month (or other period for which rent or additional rent is to be paid in advance in accordance with the Lease) in which the Foreclosure Transfer occurs, unless such rent, additional rent or deposit is actually received by the Foreclosure Transferee,
- (d) bound by any amendment or modification of the Lease or any termination of the Lease made without Lender’s prior written consent,
- (e) responsible for repairing or restoring the Property in the case of damage by fire or other casualty or taking by condemnation which occurs before the Foreclosure Transfer.
- (f) obligated to perform any construction work required to be done by Borrower or any such prior landlord or to reimburse Tenant for any construction work performed by Tenant other than the obligation to pay any outstanding Landlord’s Maximum Contribution (as defined in the Workletter attached to the Lease) in accordance with the terms of the Lease, or
- (g) bound by any agreement not expressly set forth in the Lease.

3. Attornment. If the interest of the landlord under the Lease is transferred by reason of a Foreclosure Transfer, Tenant shall be bound to the Foreclosure Transferee and the Foreclosure Transferee shall be bound to Tenant under the Lease for the balance of the term of the Lease, and any extension thereof which may be effected in accordance with the Lease, with the same force and effect as if the Foreclosure Transferee were the original landlord under the Lease, except as otherwise provided in Paragraph 2 hereof. Tenant hereby attorns to the Foreclosure Transferee as the landlord under the Lease, such attornment to be effective and self-operative upon the Foreclosure Transfer without the execution of any further agreement. The respective rights and obligations of the Foreclosure Transferee and Tenant upon such attornment, to the extent of such balance of the term of the Lease and any such extension, shall be the same as now set forth in the Lease, except as otherwise provided in Paragraph 2 hereof.

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4. Covenants. With respect to the assignment of the Lease by Borrower to Lender pursuant to the Mortgage, Tenant shall pay all rent and perform all obligations under the Lease to Borrower until Tenant receives written notice from Lender, in which event Tenant agrees to pay all rent and to perform all obligations under the Lease directly to and for the benefit of Lender or such other party as Lender directs in such notice, and Borrower authorizes Tenant to do so in accordance with the instructions of Lender. Borrower agrees that such payment and performance to and for the benefit of Lender shall satisfy Tenant's obligations under the Lease. Tenant agrees that Lender assumes no obligations under the Lease by virtue of the assignment of the Lease by Borrower to Lender pursuant to the Mortgage or other loan document and that Lender shall not become liable for any obligations under the Lease until Lender acquires title to the Property as a Foreclosure Transferee at a Foreclosure Transfer. As long as the Mortgage shall encumber the Property:

(a) Tenant shall not pay any rent under the Lease more than one (1) month in advance.

(b) Tenant shall not amend, modify or terminate (except upon default or breach by Borrower, after giving Lender written notice and opportunity to cure pursuant to this Agreement) the Lease without the prior written consent of Lender.

(c) If Borrower defaults under or breaches the Lease, Tenant shall promptly send written notice to Lender describing each such default or breach and give Lender the following opportunity to cure such default or breach:

(i) In the case of a default or breach that is capable of being cured by the payment of money, Lender shall have thirty (30) days from receipt of written notice of the default to cure such default or breach;

(ii) In the case of a non-monetary default or breach that is capable of being cured without possession of the Property, Lender shall have the cure period available to Borrower under the Lease plus thirty (30) days to cure such default or breach; and

(iii) If curing such default or breach requires possession of the Property, Lender shall have thirty (30) days after the date on which Lender obtains possession of the Property to cure such default or breach.

Tenant shall not terminate the Lease because of any such default or breach by Borrower unless Tenant has given such written notice to Lender and Lender has failed to cure such default or breach within the applicable period of time.

Anything in this Subparagraph 4(c) to the contrary notwithstanding, if the default or breach is of such a nature that Lender is not obligated to cure such pursuant to the provisions of Paragraph 2 hereof, Tenant shall not terminate the Lease so long as Lender is diligently moving towards completion of a Foreclosure Transfer, and upon completion of such Foreclosure Transfer, such default or breach shall be deemed waived.

5. Notices. All notices under this Agreement shall be properly given only if made in writing and either mailed by certified mail, return receipt requested, postage prepaid, or delivered by hand (including messenger or recognized delivery, courier or air express service) to the party at

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the address set forth in this paragraph or such other address as such party may designate by notice to the other parties. Such notices shall be effective on the date of receipt (evidenced by the certified mail receipt) if mailed or on the date of delivery if hand delivered. If any such notice is not received or cannot be delivered because the receiving party changed its address and did not give notice of such change to the sending party or due to a refusal to accept such notice by the receiving party, such notice shall be effective on the date delivery is attempted. Any notice under this Agreement may be given on behalf of a party by the attorney for such party.

(a) The address of Borrower is:

TR 120 S. LASALLE CORP.
c/o Lincoln Property Company
120 North LaSalle Street, Suite 1750
Chicago, IL 60602
Attention: Jennifer A. Ratcliffe

Holland & Knight LLP
131 South Dearborn, 29th Floor
Chicago, IL 60603
Attention: James T. Mayer

(b) The address of Lender is:

AXA Equitable Life Insurance Company
1290 Avenue of the Americas
New York, NY 10104
Attention: Real Estate Legal Department
(Loan No. 160000712)

Quadrant Real Estate Advisors LLC
12735 Morris Road, Suite 100
Alpharetta, GA 30004
Attention: Quadrant-Asset Management
(Loan No. 160000712)

and

Berkadia Commercial Mortgage LLC
Attn: EVP Client Relations
120 Welsh Road
Horsham, PA 19044

Attention: AXA Equitable Loan No.
160000712

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(c) The address of Tenant is:

Legal Assistance Foundation of Metropolitan Chicago
Third Floor
111 West Jackson Boulevard
Chicago, Illinois 60603
Attention: Executive Director

DLA Piper LLP (US)
203 North LaSalle Street, Suite 1900
Chicago, Illinois 60601
Attention: Richard F. Klawiter, Esq.

6. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. If there is any conflict or inconsistency between this Agreement and the Lease, this Agreement shall control. This Agreement may be executed in counterparts, each of which shall be an original but all of which together shall constitute this Agreement. This Agreement shall bind and inure to the benefit of Borrower, Lender and Tenant and their respective successors and assigns.

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IN WITNESS WHEREOF, Borrower, Lender and Tenant have executed this Agreement as of the date first hereinabove written.

BORROWER:

**TR 120 S. LASALLE CORP., a
Delaware corporation**

By  _____
Jenifer A. Ratcliffe, President

LENDER:

**AXA EQUITABLE LIFE INSURANCE
COMPANY, a New York corporation**

By _____
Title _____

TENANT:

**LEGAL ASSISTANCE FOUNDATION OF
METROPOLITAN CHICAGO, an Illinois
not-for-profit corporation**

By _____
Title _____

Property of Cook County Clerk's Office

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BORROWER:

TR 120 S. LASALLE CORP., a
Delaware corporation

By _____
Jenifer A. Ratcliffe, President

LENDER:

**AXA EQUITABLE LIFE INSURANCE
COMPANY,** a New York corporation

By Julie Dabbs
Title Investment Officer

TENANT:

**LEGAL ASSISTANCE FOUNDATION OF
METROPOLITAN CHICAGO,** an Illinois
not-for-profit corporation

By _____
Title _____

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BORROWER:

**TR 120 S. LASALLE CORP., a
Delaware corporation**

By _____
Jenifer A. Ratcliffe, President

LENDER:

**AXA EQUITABLE LIFE INSURANCE
COMPANY, a New York corporation**

By _____
Title _____

TENANT:

**LEGAL ASSISTANCE FOUNDATION OF
METROPOLITAN CHICAGO, an Illinois
not-for-profit corporation**

By Diana C. White
Title Executive Director

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BORROWER

STATE OF ILLINOIS

)

ss.

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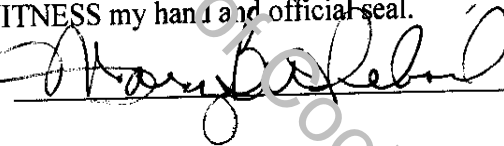
COUNTY OF COOK

)

On May 18th, 2011, before me, Marybeth Pehanich, a Notary Public in and for the State of Illinois, personally appeared Jennifer Katcheffe, personally known to me (or 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 or she executed the within instrument in his or her authorized capacity and that, by his or her signature on the within instrument, the person or entity upon behalf of which he or she acted executed the within instrument.

WITNESS my hand and official seal.

Signature



(Seal)



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LENDER

STATE OF Georgia)
)
County of Fulton) ss.

On May 13, 2011, before me, Denise Van Treuren, a Notary Public in and for the State of Georgia, personally appeared Debbie Tumbles, personally known to me (or 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 or she executed the within instrument in his or her authorized capacity and that, by his or her signature on the within instrument, the person or entity upon behalf of which he or she acted executed the within instrument.

WITNESS my hand and official seal.

Signature Denise Van Treuren (Seal)



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TENANT

STATE OF Illinois,

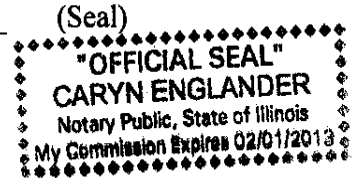
County of Cook) ss.

On May 18, 2011, before me, Caryn Englander, a Notary Public in and for the State of Illinois, personally appeared

Diana C. White, personally known to me (or 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 or she executed the within instrument in his or her authorized capacity and that, by his or her signature on the within instrument, the person or entity upon behalf of which he or she acted executed the within instrument.

WITNESS my hand and official seal.

Signature Caryn Englander



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EXHIBIT A

Description of the Property

THE EAST ½ OF LOT 2, ALL OF LOT 3 AND THAT PART OF LOT 4 LYING WEST OF THE WEST LINE OF LASALLE STREET (EXCEPT THE SOUTH 10 FEET OF SAID LOTS TAKEN FOR ALLEY) IN BLOCK 96 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Pin# 17-16-210-007-0000

Commonly known as "120 S. LaSalle Street, Chicago, Illinois 60603"

Property of Cook County Clerk's Office