

# UNOFFICIAL COPY

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**This Document Prepared By And**  
**When Recorded Return To:**

Matthew B. Brotschul, Esq.  
BROTSCHUL POTTS LLC  
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Suite 230  
Chicago, Illinois 60606  
(312) 551-9003



Doc#: 1115916038 Fee: \$46.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/08/2011 12:06 PM Pg: 1 of 6

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## SUBORDINATION AGREEMENT

PKPG Companies, Inc., an Illinois corporation ("General Contractor"), understands that American Chartered Bank, an Illinois banking corporation ("Bank"), is providing and has agreed to continue to provide certain financing to 3101 & 3103 West Lake Avenue, LLC, an Illinois limited liability company ("Borrower"), pursuant to those certain loan documents dated of even date herewith between the Bank and Borrower and all other financing agreements now or hereafter existing between Bank and Borrower, together with all amendments, modifications, and supplements to any one or more of the foregoing, and together with all renewals, extensions and restatements of any one or more of the foregoing (the "Loan Documents") in connection with the construction of residences on that real property commonly known as 3101-03 W. Lake, Glenview, Illinois and more accurately described on Exhibit A, attached hereto (the "Premises").

General Contractor understands that Bank will only make the financing arrangements enumerated in the Loan Documents available to Borrower, so long as General Contractor executes and delivers this Agreement to Bank. Therefore, in order to satisfy such condition precedent, General Contractor agrees to the following terms and conditions.

1. General Contractor hereby agrees to subordinate, and does hereby subordinate any and all contractors (now existing or hereinafter created) with Borrower (collectively, the "Subordinated Contract") as well any part of Borrower's obligations, liabilities and indebtedness which may now or hereafter be owing by Borrower to General Contractor, pursuant to its Subordinated Contract or otherwise and all costs and expenses (including attorneys' fees) owing by Borrower to General Contractor (all of the obligations, liabilities and indebtedness described or to which reference is made in this clause to the payment in full of the Senior Debt (as hereinafter defined). For purposes hereof, "Senior Debt" means all obligations, including, without limitation: (i) principal and interest on loans, advances, accommodations or other extensions of credit by Bank to Borrower now or hereafter made and howsoever evidenced to or on behalf of Borrower, (ii) accrued interest, attorneys' fees and expenses incurred in enforcing Bank's rights in the event of default by Borrower under its obligations to Bank, (iii) all other indebtedness for which Borrower is now or at any time hereafter liable to Bank in any manner, whether primarily or secondarily, absolutely or contingently, directly or indirectly, jointly, severally or jointly and severally, and whether matured or unmatured, including all indebtedness arising directly out of transactions between Borrower and Bank or acquired by Bank outright, conditionally or as collateral security from another person or entity, and (iv) all other

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"Indebtedness," as that term is defined in the Loan Documents (and, in the case of all of the foregoing, any and all renewals and extensions of all or any part thereof). Regardless of whether a default or an event of default (however defined) exists under the Subordinated Contract, General Contractor further agrees not to: (x) accept, retain, request or take any security for the Subordinated Contract without Bank's prior written consent, (y) amend or modify the Subordinated Contract, without Bank's prior written consent, (z) take any action to enforce its rights in any collateral securing payment thereof, unless and until all Senior Debt shall have been paid in full.

2. General Contractor hereby waives any rights it has or may have in the future to require Bank to marshal its collateral, and agrees that Bank may, in addition to other rights hereunder, proceed against its collateral in any order that it deems appropriate in the exercise of its absolute discretion.

3. General Contractor agrees that it will advise each future holder of all or any part of the Subordinated Contract that the Subordinated Contract is subordinated to the Senior Debt in the manner and to the extent set forth herein.

4. General Contractor agrees that it will not at any time directly or indirectly contest the validity, perfection, priority or enforceability of any lien, security interest, encumbrance or claim granted to Bank in or on the assets of the Borrower, and hereby agrees not to hinder Bank or take a position adverse to Bank in the defense of any action contesting the validity, perfection, priority or enforceability of any such lien, security interests, encumbrances or claims. General Contractor further agrees that the provisions of this Agreement shall remain in full force and effect notwithstanding a successful challenge to the validity, perfection, priority or enforceability of all or any of the Senior Debt or the liens and security interests securing the Senior Debt.

5. (a) This Agreement shall be governed by Illinois law. This Agreement contains the entire agreement between General Contractor and Bank with respect to this subject, and may only be modified by a writing signed by both General Contractor and Bank.

(b) Bank's failure to exercise any right hereunder shall not be construed as a waiver of the right to exercise the same or any other right at any other time and from time to time thereafter and such rights shall be cumulative and not exclusive.

(c) Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

(d) This Agreement shall continue in full force and effect until payment in full of the Senior Debt and shall be binding upon General Contractor and its successors and permitted assigns, and shall inure to the benefit of Bank and its successors and assigns, including, without limitation, any future holder of all or any part of the Senior Debt, it being expressly acknowledged that Lender's

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rights under this Agreement may be assigned by Bank in connection with any assignment or transfer of all or any portion of Senior Debt and that each holder of any portion of Senior Debt shall be equally and ratably entitled to the benefits of this Agreement. References herein to the Borrower shall include any successor to, or assign of, the Borrower, including without limitation any debtor-in-possession or trustee for the Borrower in any proceeding under the United States Bankruptcy Code.

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IN WITNESS WHEREOF, General Contractor has executed this Agreement as of the date first written above.

GENERAL CONTRACTOR:

PKPG COMPANIES, INC.,  
an Illinois corporation

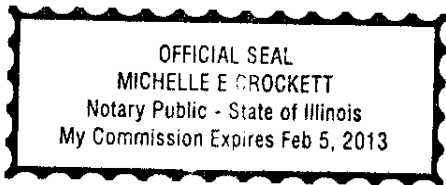
By:   
Its: President

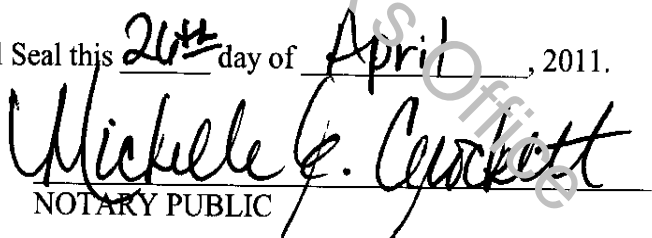
Property of Cook County, Illinois

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that Peter Caratia, as the authorized signatory of **PKPG Companies, Inc.**, a(n) Illinois corporation, personally known to me to be the authorized signatory as aforesaid, and is the same person whose name is subscribed to the foregoing instrument as such authorized signatory, appeared before me this day in person and acknowledged to me that he signed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20<sup>th</sup> day of April, 2011.



  
NOTARY PUBLIC


My Commission Expires:  
02/05/2013

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## CONSENT

The undersigned Borrower acknowledges receipt of a copy of the foregoing Subordination Agreement, consents to all of the terms and conditions thereof. In the event of any breach of the provisions of this Agreement or the Subordinated Contract, Borrower agrees that, in addition to any other rights and remedies which Bank may have under the documents, agreements and instruments evidencing the financing arrangements, all of the Senior Debt shall, without notice or demand, become immediately due and payable unless Bank shall otherwise elect.

3101 & 3103 West Lake Avenue, LLC,  
an Illinois limited liability company

By:   
Its: Manager

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## EXHIBIT A

### THE PREMISES -- LEGAL DESCRIPTION

THE NORTH 100.56 FEET OF LOT 1 IN THE VILLAS OF GLEN PARK SUBDIVISION, BEING A SUBDIVISION OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 28, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF

RECORDED SEPTEMBER 8, 2009 AS DOCUMENT 0925134074, IN COOK COUNTY, ILLINOIS.

Common Address: 3101-03 W. Lake Avenue, Glenview, IL 60025

Permanent

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No.:

**04-28-400-112-0000**