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THIS INSTRUMENT WAS
PREPARED BY AND AFTER
RECORDING, MAIL TO:

Arthur Murphy, Esq.
Illinois Housing Development Authority
401 North Michigan Avenue
Suite 700
Chicago, Illinois 60611

Property Address:
1130 North Dearborn Street
Chicago, Illinois



Doc#: 1123545010 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/23/2011 09:32 AM Pg: 1 of 9

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT (this "Agreement") is made as of the 1st day of August, 2011, by and between the ILLINOIS HOUSING DEVELOPMENT AUTHORITY, a body politic and corporate ("Mortgagee"), which has offices at 401 North Michigan Avenue, Suite 700, Chicago, Illinois 60611, Attention: Legal Department, and TREASURE ISLAND FOODS, INC., an Illinois corporation ("Tenant"), which leases space at 75 West Elm Street, Chicago, Illinois 60610.

RECITALS

A. Tenant has entered into that certain Lease dated May 13, 1996 (the "Original Lease") with American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated September 20, 1974, and known as Trust No. 33445 (the "Trust") and Elm Street Plaza Venture ("Landlord Beneficiary"), sole beneficiary thereof, for part of the property commonly known as 75 West Elm Street, Chicago, Illinois 60610 (the "Property" or "Premises"), more particularly described on Exhibit "A" attached hereto and made a part hereof; and

B. On or about December 19, 2003, Mortgagee made a loan to Landlord Beneficiary and LaSalle Bank National Association, not personally, but solely as Successor Trustee under the Trust ("Former Trustee"), which was secured by the first lien against the Property of that certain Mortgage, Security Agreement and Assignment of Rents and Leases made by Landlord Beneficiary and Former Trustee in favor of Mortgagee and recorded on December 22, 2003 with the Cook County, Illinois Recorder of Deeds as Document No. 0335634094 (herein, together with any and all amendments, modifications, extensions, renewals, consolidations and replacements, collectively the "Mortgage"); and

C. On or about January 20, 2011, Landlord Beneficiary elected to become a limited liability limited partnership and, as a result, Landlord Beneficiary's name was changed to "Elm Street Plaza Venture LLLP", an Illinois limited liability limited partnership; and

D. Landlord Beneficiary, Chicago Title Land Trust Company, not personally, but solely as Successor Trustee under the Trust (together with Landlord Beneficiary, "Landlord") and Tenant desire

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to enter into a First Amendment to Lease (the "Lease Amendment") in order to, among other things, extend the term through and including July 31, 2021 (the Original Lease and the First Amendment shall be collectively referred to hereinafter as the "Lease");

E. Tenant has agreed to subordinate the Lease to the lien of the Mortgage, and Mortgagee has agreed to grant non-disturbance to Tenant under the Lease on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the Property and of the sum of One Dollar (\$1.00) by each party in hand paid to the other, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Subordination. The Lease (including all of the terms, covenants and provisions thereof) is and shall be subject and subordinate in all respects to the Mortgage, to the full extent of any and all amounts from time to time secured thereby and interest thereon, all with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease.

2. Attornment. Tenant, for itself and its successors and assigns, agrees that it will attorn to and recognize any purchaser of the Property at a foreclosure sale under the Mortgage, or any transferee who acquires the Property by deed in lieu of foreclosure or otherwise, and the successors and assigns of such purchaser or transferee, as its landlord for the unexpired balance (and any extensions or renewals, if previously, at that time or thereafter exercised by Tenant) of the term of the Lease upon the same terms and conditions set forth in the Lease.

3. Non-Disturbance. Mortgagee, for itself and its successors and assigns, for any purchaser at a foreclosure sale under the Mortgage, for any transferee who acquires the Property by deed in lieu of foreclosure or otherwise, and for the successors and assigns of such purchaser and transferee (herein, Mortgagee and each such other party is called a "New Landlord"), hereby covenants and agrees with Tenant that if Mortgagee or other New Landlord shall commence any proceedings to foreclose the Mortgage for any reason whatsoever or shall succeed to the interest of Landlord by foreclosure, deed in lieu thereof or otherwise, provided Tenant is not then in default (after expiration of any applicable grace period) under the Lease, and so long as Tenant is not in default (after expiration of any applicable grace period) under the Lease, that: (a) Tenant shall not be named as a party defendant in any foreclosure action unless Tenant is deemed to be a necessary party; (b) subject to the next succeeding grammatical paragraph, the Lease shall, in accordance with its terms, remain in full force and effect as a direct indenture of lease between Mortgagee, or such other New Landlord (as the case may be), and Tenant, with the same force and effect as if originally entered into with Mortgagee, or such other New Landlord (as the case may be); and (c) Tenant's possession of the Premises and Tenant's rights and privileges under the Lease shall not be diminished, interfered or disturbed by such Mortgagee or other New Landlord by such foreclosure under the Mortgage or by any such attempt to foreclose or to succeed to the interests of the Landlord by foreclosure, deed in lieu thereof or otherwise.

If Mortgagee or any other New Landlord shall succeed to the interest of the Landlord under the Lease, Tenant agrees as follows:

(a) Mortgagee or such other New Landlord shall not be: (i) subject to any credits, offsets,

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defenses, claims, or counterclaims which Tenant may have against any prior landlord (including Landlord), (ii) bound by any rent or additional rent which Tenant shall have paid more than one (1) month in advance to any prior landlord (including Landlord), (iii) bound by any covenant to undertake or complete any improvement to the Premises, or (iv) bound by any amendment or modification to the Lease which has not been consented to in writing by Mortgagee;

- (b) No New Landlord (including, without limitation, Mortgagee) shall be liable for: (i) any act or omission of any prior landlord (including Landlord), (ii) return of any security deposit made by Tenant to Landlord unless New Landlord shall have actually received such security deposit from Landlord, or (iii) any payment to Tenant of any sums, or the granting to Tenant of any credit, in the nature of a contribution towards the cost of preparing, furnishing and moving into the Premises or any portion thereof; and
- (c) Tenant shall look solely to the Property for recovery of any judgment or damages from Mortgagee or such other New Landlord, and neither Mortgagee, such other New Landlord, any partner, officer, director, shareholder or agent of them nor any successor or assign of any of the foregoing shall have any personal liability, directly or indirectly, under or in connection with the Lease or this Agreement or any amendment or amendments to either thereof made at any time or times, heretofore or hereafter, and Tenant hereby forever and irrevocably waives and releases any and all personal liability. The limitation of liability provided in this paragraph is in addition to, and not in limitation of, any limitation on liability applicable to Mortgagee or such other New Landlord provided by law or by any other contract, agreement or instrument.

4. Landlord's Default. Tenant hereby agrees to provide Mortgagee with written notice of any casualty damage to the Premises and any default under the Lease by the Landlord and to provide Mortgagee the same period of time afforded to Landlord under the Lease to afforded to Landlord to cause such damage to be repaired (if the Landlord is obligated under the Lease to repair or cause such damage to be repaired), or to remedy such default, as the case may be, prior to exercising any right or remedy of Tenant under the Lease. Notwithstanding the foregoing, Tenant agrees that Mortgagee shall have no obligation to remedy any such default.

5. Estoppel Certificate. Tenant agrees at any time and from time to time to execute, deliver and acknowledge to Landlord, to Mortgagee or to any third party designated by Landlord or by Mortgagee within twenty (20) days following Landlord's or Mortgagee's written request therefor, (a) a statement in writing certifying that the Lease is in full force and effect, that to Tenant's knowledge Landlord is not in default thereunder (or specifying any defaults by Landlord which Tenant alleges), that rent has not been prepaid more than one (1) month in advance, and specifying any further information about the Lease or the Premises which Landlord or Mortgagee or said third party may reasonably request, (b) a statement in writing that Tenant will recognize the Mortgagee as assignee of the Landlord's rights under the Lease in accordance with this Agreement, and (c) a statement in writing acknowledging or denying receipt of notice of any conditional or security assignment of the Lease to any third party. Tenant understands that Mortgagee and/or prospective purchasers, other mortgagees or lessors of the Premises or any part thereof will rely on such certificates. Tenant's obligation to deliver such certificates within twenty (20) days as described above is a material obligation of Tenant hereunder and under the Lease.

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6. Further Subordination. Tenant, for itself and its successors and assigns, agrees that, without prior written consent of Mortgagee, Tenant will not (a) enter into any subordination agreement with any other person other than Mortgagee, or (b) agree to attorn to or recognize any purchaser of the Property at any foreclosure sale under any lien other than that of the Mortgage or any transferee who acquires the Property by deed in lieu of foreclosure or otherwise under any lien other than that of the Mortgage (provided, however, that this provision shall not be deemed to constitute Mortgagee's consent to the placing of any lien other than the Mortgage on the Property).

7. Condemnation Awards. Tenant hereby agrees that any interest of Tenant in any condemnation or eminent domain proceeds or awards made with respect to any interest in the Premises shall be subordinate to the interests of the Mortgagee in such proceeds or awards. Tenant will neither seek nor accept any condemnation or eminent domain proceeds or awards made with respect to any interest in the Premises until all amounts secured by the Mortgage have been paid in full. However, Tenant reserves the right, in accordance with Article XVIII of the Lease, to make a separate claim for moving costs and similar items and for the value of any leasehold improvements made by Tenant and furniture, trade fixtures or personalty of Tenant.

8. Notice. Each notice, demand or other communication in connection with this Agreement shall be in writing and shall be deemed to be given to and served upon the addressee thereof on the earlier of (a) actual delivery to such addressee at its address set forth above or (b) the third (3rd) business day after deposit thereof in the United States mail, registered or certified mail, return receipt requested, postage prepaid, addressed to such addressee at its address set forth above. By notice complying with this section, any party may from time to time designate a different address as its address for the purpose of the receipt of notice hereunder.

9. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

10. Controlling Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

11. Recording. The parties hereto agree that this Agreement may be recorded in the public records of the county in which the Premises is located.

12. Counterparts. This Agreement may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed and delivered this Subordination, Non-Disturbance and Attornment Agreement as of the day and year first above written.

MORTGAGEE:

TENANT:

ILLINOIS HOUSING
DEVELOPMENT AUTHORITY

TREASURE ISLAND FOODS, INC.

By: [Signature]
Name: Mazim Taib
Title: Assistant Executive Director

By: _____
Name: _____
Title: _____

A.M.

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MORTGAGEE:

ILLINOIS HOUSING
DEVELOPMENT AUTHORITY

By: _____
Name: _____
Title: _____

TENANT:

TREASURE ISLAND FOODS, INC.

By: Mano A Kamber
Name: Mano A Kamber
Title: Pres / CEO

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EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1:

LOT 22 IN BLOCK 18 IN BUSHNELL'S ADDITION TO CHICAGO IN THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

PARCEL 2:

LOT 23 IN BLOCK 18 IN BUSHNELL'S ADDITION TO CHICAGO IN THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

PARCEL 3:

LOT 24 IN BLOCK 18 IN BUSHNELL'S ADDITION TO CHICAGO IN THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

PARCEL 4:

LOTS 1 TO 8 BOTH INCLUSIVE AND THAT PART OF LOT 9 DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORDER OF SAID LOT 9; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 9 TO THE WEST LINE OF THE ALLEY AT THE REAR OF SAID LOT; THENCE SOUTH ALONG THE WEST LINE OF SAID ALLEY 3 FEET 2-3/8 INCHES; THENCE WESTERLY TO A POINT OF THE WEST LINE OF SAID LOT 9 WHICH IS 3 FEET 9-7/8 INCHES SOUTH OF NORTH WEST CORNER THEREOF; THENCE NORTH TO THE POINT OF BEGINNING, ALL IN BLOCK 18 IN BUSHNELL'S ADDITION TO CHICAGO IN THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 1130 North Dearborn
Chicago, Illinois 60610

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