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Drawn By and Return To:
Mark E. Carpenter (MEC)
Moore & Van Allen PLLC
Bank of America Corporate Center
100 North Tryon Street, Suite 4700
Charlotte, North Carolina 28202-4003

Doc#: 1205449000 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/23/2012 08:58 AM Pg: 1 of 10

STATE OF IL
COUNTY OF _____

PEN: 03-27-401-Cook
291

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (this "Agreement") dated as of February 15, 2012, is made among PANERA, LLC. (the "Tenant"), RANDHURST SHOPPING CENTER LLC, a Delaware limited liability company (the "Landlord"), and BANK OF AMERICA, N.A., a national banking association, in its capacity as Administrative Agent under the Credit Agreement referenced below and for the benefit of the Secured Parties, as such term is defined in the Credit Agreement (the "Mortgagee"). Any capitalized term used herein and not defined shall have the meaning ascribed to such term in the Credit Agreement.

WHEREAS, Mortgagee is Administrative Agent for the Secured Parties referenced in that certain Construction Loan Agreement dated as of July 14, 2010 among the Landlord, the Lenders party thereto and the Mortgagee (as the same may have been or may be from time to time amended, restated, supplemented or otherwise modified, the "Credit Agreement").

WHEREAS the Obligations (as defined in the Credit Agreement) are secured by, among other things, a Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing (herein, as it may have been or may be from time to time renewed, extended, amended or supplemented, called the "Mortgage"), recorded or to be recorded in the land records of Cook County, Illinois, covering, among other property, the land (the "Land") described in Exhibit "A" which is attached hereto and incorporated herein by reference, and the improvements ("Improvements") thereon (such Land and Improvements being herein together called the "Property");

WHEREAS, Tenant is the tenant under a lease from Landlord dated February 10, 2012 (herein, as it may from time to time be renewed, extended, amended or supplemented, called the "Lease"), covering a portion of the Property (said portion being herein referred to as the "Premises"); and

WHEREAS, the term "Landlord" as used herein means the present landlord under the Lease or, if the landlord's interest is transferred in any manner, the successor(s) or assign(s) occupying the position of landlord under the Lease at the time in question.

NOW, THEREFORE, in consideration of the mutual agreements herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Subordination. Tenant agrees and covenants that the Lease and the rights of Tenant thereunder, all of Tenant's right, title and interest in and to the property covered by the Lease, and any lease thereafter executed by Tenant covering any part of the Property, are and shall be subject, subordinate and inferior to (a) the Mortgage and the rights of Mortgagee thereunder, and all right, title and interest of Mortgagee in the Property, and (b) all other security documents now or hereafter securing payment of any indebtedness of the Landlord (or any prior landlord) to Mortgagee which cover or affect the Property, including the Loan Documents, as such term is defined in the Credit Agreement (collectively, the "Security Documents"). This Agreement is not intended and shall not be construed to subordinate the Lease to any mortgage, deed of trust or other security document other than those referred to in the preceding sentence, securing the indebtedness to Mortgagee.

2. Non-Disturbance. Mortgagee agrees that so long as the Lease is in full force and effect and Tenant is not in default in the payment of rent, additional rent or other payments or in the performance of any of the other terms,

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covenants or conditions of the Lease on Tenant's part to be performed (beyond the period, if any, specified in the Lease within which Tenant may cure such default),

(a) Tenant's possession of the Premises under the Lease shall not be disturbed or interfered with by Mortgagee in the exercise of any of its foreclosure rights under the Mortgage, including any conveyance in lieu of foreclosure, and

(b) Mortgagee will not join Tenant as a party defendant for the purpose of terminating Tenant's interest and estate under the Lease in any proceeding for foreclosure of the Mortgage.

3. Attornment.

(a) Tenant covenants and agrees that in the event of foreclosure of the Mortgage, whether by power of sale or by court action, or upon a transfer of the Property by conveyance in lieu of foreclosure (the purchaser at foreclosure or the transferee in lieu of foreclosure, including Mortgagee if it is such purchaser or transferee, being herein called "New Owner"), Tenant shall attorn to the New Owner as Tenant's new landlord, and agrees that the Lease shall continue in full force and effect as a direct lease between Tenant and New Owner upon all of the terms, covenants, conditions and agreements set forth in the Lease and this Agreement, except for provisions which are impossible for New Owner to perform; provided, however, that in no event shall the New Owner be:

(i) liable for any act, omission, default, misrepresentation, or breach of warranty, of any previous landlord (including Landlord) or obligations accruing prior to New Owner's actual ownership of the Property other than to cure defaults of a continuing nature through the maintenance or repair of the Premises;

(ii) subject to any offset, defense, claim or counterclaim which Tenant might be entitled to assert against any previous landlord (including Landlord), provided that Tenant may pursue its rights and remedies against such previous landlord;

(iii) bound by any payment of rent, additional rent or other payments, made by Tenant to any previous landlord (including Landlord) for more than one (1) month in advance;

(iv) bound by (A) any amendment or modification of the Lease which has the effect of reducing rent or otherwise diminishing the economic benefits of the Lease to Landlord, decreasing the term of or canceling the Lease prior to its expiration, imposing additional obligations on Landlord, or modifying any provision related to hazardous materials or (B) any consent or acquiescence under the Lease to any assignment or sublease hereafter granted in each case made, granted or entered into by any previous landlord (including Landlord) without the written consent of Mortgagee; or

(v) liable for any deposit that Tenant may have given to any previous landlord (including Landlord) which has not, as such, been transferred to New Owner.

(b) The provisions of this Agreement regarding attornment by Tenant shall be self-operative and effective without the necessity of execution of any new lease or other document on the part of any party hereto or the respective heirs, legal representatives, successors or assigns of any such party. Tenant agrees, however, to execute and deliver upon the request of New Owner, any instrument or certificate which in the reasonable judgment of New Owner may be necessary or appropriate to evidence such attornment, including a new lease of the Premises on the same terms and conditions as the Lease for the unexpired term of the Lease.

4. Stoppel Certificate. Tenant agrees to execute and deliver from time to time, upon the request of Landlord or of any holder(s) of any of the indebtedness or obligations secured by the Mortgage, a certificate regarding the status of the Lease, consisting of statements, if true (or if not, specifying why not), (a) that the Lease is in full force and effect, (b) the date through which rentals have been paid, (c) the date of the commencement of the term of the Lease, (d) the nature of any amendments or modifications of the Lease, (e) to the best of Tenant's knowledge no default, or state of facts which with the passage of time or notice (or both) would constitute a default, exists under the Lease, (f) to the best of Tenant's knowledge, no setoffs, recoupments, estoppels, claims or counterclaims exist against Landlord, and (g) such other matters as may be reasonably requested.

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5. Acknowledgment and Agreement by Tenant. Tenant acknowledges and agrees as follows:

(a) Tenant acknowledges that it has been advised that the Mortgage contains an assignment of rents and leases. Tenant hereby expressly consents to such assignment and agrees that such assignment shall, in all respects, be superior to any interest Tenant has in the Lease of the Property, subject to the provisions of this Agreement. Tenant will not amend, alter or waive any provision of, or consent to the amendment, alteration or waiver of any provision of the Lease without the prior written consent of Mortgagee. Tenant shall not prepay any rents or other sums due under the lease for more than one (1) month in advance of the due date therefor. Tenant acknowledges that Mortgagee will rely upon this instrument in connection with such financing.

(b) Mortgagee and Lenders are making the Credit Extensions (as defined in the Credit Agreement) for the benefit of the Landlord and other Borrowers under the Credit Agreement and are under no duty or obligation to ensure that any such Credit Extensions are used for the benefit of the Tenant or the Property.

(c) From and after the date hereof, in the event of any act or omission by Landlord which would give Tenant the right, either immediately or after the lapse of time, to terminate the Lease or to claim a partial or total eviction, Tenant will not exercise any such right (i) until it has given written notice of such act or omission to the Mortgagee; and (ii) until the same period of time as is given to Landlord under the Lease to cure such act or omission shall have elapsed following such giving of notice to Mortgagee and following the time when Mortgagee shall have become entitled under the Mortgage to remedy the same, but in any event 30 days after receipt of such notice or such longer period of time as may be necessary to cure or remedy such default, act, or omission including such period of time necessary to obtain possession of the Property and thereafter cure such default, act, or omission, during which period of time Mortgagee shall be permitted to cure or remedy such default, act or omission; provided, however, that Mortgagee shall have no duty or obligation to cure or remedy any breach or default. It is specifically agreed that Tenant shall not, as to Mortgagee, require cure of any such default which is personal to Landlord, and therefore not susceptible to cure by Mortgagee.

(d) In the event that Mortgagee notifies Tenant of a default under the Mortgage, Credit Agreement, or Security Documents and demands that Tenant pay its rent and all other sums due under the Lease directly to Mortgagee, Tenant, provided it has received a fully executed copy of this Agreement, shall honor such demand and pay the full amount of its rent and all other sums due under the Lease directly to Mortgagee, without offset, or as otherwise required pursuant to such notice beginning with the payment next due after such notice of default, without inquiry as to whether a default actually exists under the Mortgage, Security Documents or otherwise in connection with the Credit Agreement, and notwithstanding any contrary instructions of or demands from Landlord.

(e) Tenant shall send a copy of any notice or statement under the Lease to Mortgagee at the same time such notice or statement is sent to Landlord if such notice or statement has a material impact on the economic terms, operating covenants or duration of the Lease.

(f) Tenant has no right or option of any nature whatsoever, whether pursuant to the Lease or otherwise, to purchase the Premises or the Property, or any portion thereof or any interest therein, and to the extent that Tenant has had, or hereafter acquires, any such right or option, same is hereby acknowledged to be subject and subordinate to the Mortgage and is hereby waived and released as against Mortgagee and New Owner.

(g) This Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement and Tenant waives any requirement to the contrary in the Lease.

(h) Mortgagee and any New Owner shall have no liability to Tenant or any other party for any conflict between the provisions of the Lease and the provisions of any other lease affecting the Property, including, but not limited to, any provisions relating to exclusive or non-conforming uses or rights, renewal options and options to expand, and in the event of such a conflict, Tenant's sole remedy shall be to cancel the Lease or take any other remedial action against prior Landlord; provided, however, in no event shall Tenant take any remedial or other action against Mortgagee or New Owner, or against any other party for which Mortgagee or any New Owner would be liable, as a result of any such conflict.

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(i) Notwithstanding anything to the contrary in the Lease or the Security Documents, neither Mortgagee nor any New Owner shall be liable for or bound by any Construction-Related Obligation under the Lease except for the obligations related to Tenant's right to offset with respect to "Landlord's Cash Allowance" as described in the last paragraph of Section 8.7 of the Lease (as it exists on the date hereof). As used herein, a "Construction-Related Obligation" means any obligation of Landlord under the Lease to make, pay for, or reimburse Tenant for any alterations, demolition, or other improvements or work at the Property, including the Premises.

(j) Mortgagee and any New Owner shall have no obligation nor incur any liability with respect to any warranties of any nature whatsoever, whether pursuant to the Lease or otherwise, including, without limitation, any warranties respecting use, compliance with zoning, Landlord's title, Landlord's authority, habitability, fitness for purpose or possession.

(k) In the event that Mortgagee or any New Owner shall acquire title to the Premises or the Property, Mortgagee or such New Owner shall have no obligation, nor incur any liability, beyond Mortgagee's or New Owner's then equity interest, if any, in the Property or the Premises, and Tenant shall look exclusively to such equity interest of Mortgagee or New Owner, if any, for the payment and discharge of any obligations imposed upon Mortgagee or New Owner hereunder or under the Lease or for recovery of any judgment from Mortgagee, or New Owner, and in no event shall Mortgagee, New Owner, nor any of their respective officers, directors, shareholders, agents, representatives, servants, employees or partners ever be personally liable for such judgment.

(l) Tenant shall strictly abide by the terms of the Lease regarding hazardous substances in effect on the date hereof unless and until any changes thereto are approved in writing by Mortgagee or New Owner.

6. Acknowledgment and Agreement by Landlord. Landlord, as landlord under the Lease and grantor under the Mortgage, acknowledges and agrees for itself and its heirs, representatives, successors and assigns, that: (a) this Agreement does not constitute a waiver by Mortgagee of any of its rights under the Mortgage, Credit Agreement, or other Security Documents, or in any way release Landlord from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Mortgage, Credit Agreement, or other Security Documents; (b) the provisions of the Mortgage, Credit Agreement, and other Security Documents remain in full force and effect and must be complied with by Landlord; and (c) Tenant is hereby authorized to pay its rent and all other sums due under the Lease directly to Mortgagee upon receipt of a notice as set forth in paragraph 5(d) above from Mortgagee and that Tenant is not obligated to inquire as to whether a default actually exists under the Mortgage, Security Documents or otherwise in connection with the Credit Agreement. Landlord hereby releases and discharges Tenant of and from any liability to Landlord resulting from Tenant's payment to Mortgagee in accordance with this Agreement. Landlord represents and warrants to Mortgagee that a true and complete copy of the Lease has been delivered by Landlord to Mortgagee.

7. Lease Status. Landlord and Tenant certify to Mortgagee that neither Landlord nor Tenant has knowledge of any default on the part of the other under the Lease, that the Lease is bona fide and contains all of the agreements of the parties thereto with respect to the letting of the Premises and that all of the agreements and provisions therein contained are in full force and effect.

8. Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder shall be in writing and shall be deemed sufficiently given or furnished if delivered by expedited delivery service with proof of delivery, or by registered or certified United States mail, postage prepaid, at the addresses specified at the end of this Agreement (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given as of the date of first attempted delivery at the address and in the manner provided herein. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt. This Paragraph 8 shall not be construed in any way to affect or impair any waiver of notice or demand provided in this Agreement or in the Lease or in any document evidencing, securing or pertaining to the Obligations (as defined in the Credit Agreement) or to require giving of notice or demand to or upon any person in any situation or for any reason.

9. Miscellaneous.

(a) This Agreement supersedes any inconsistent provision of the Lease.

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(b) Nothing contained in this Agreement shall be construed to derogate from or in any way impair, or affect the lien, security interest or provisions of the Mortgage, Credit Agreement, or other Security Documents.

(c) This Agreement shall inure to the benefit of the parties hereto, their respective successors and permitted assigns, and any New Owner, and its heirs, personal representatives, successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of Mortgagee, all obligations and liabilities of the assigning Mortgagee under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Mortgagee's interest is assigned or transferred; and provided further that the interest of Tenant under this Agreement may not be assigned or transferred without the prior written consent of Mortgagee.

(d) THIS AGREEMENT AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS AND APPLICABLE UNITED STATES FEDERAL LAW EXCEPT ONLY TO THE EXTENT, IF ANY, THAT THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED NECESSARILY CONTROL.

(e) The words "herein", "hereof", "hereunder" and other similar compounds of the word "here" as used in this Agreement refer to this entire Agreement and not to any particular section or provision.

(f) This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

(g) If any provision of the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not apply to or affect any other provision hereof, but this Agreement shall be construed as if such invalidity, illegality, or unenforceability did not exist.

[remainder of page left intentionally blank - signature page(s) and exhibit(s) to follow]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and sealed as of the date first above written.

ADDRESS OF MORTGAGEE:

135 S LaSalle Street

114-135-06-11

Chicago, IL 60603

Attention: Michael Huffman

MORTGAGEE:

BANK OF AMERICA, N.A., as Administrative Agent

By: [Signature]

Name: Ann E Superfisky

Title: Vice President

State of IL)

County of COOK)

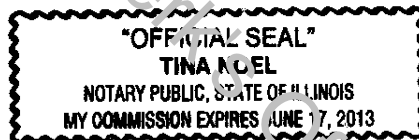
I, Tina Noel, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Ann E Superfisky, the Vice President of Bank of America, N.A., a national banking association, as Administrative Agent, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument in his/her capacity as Vice President of such Bank of America, N.A. as Administrative Agent, as his/her free and voluntary act, and as the free and voluntary act of such Bank of America, N.A., as Administrative Agent for the uses and purposes therein set forth.

Given under my hand and official seal, this 15th day of February, 2012.

[Signature]

Notary Public

My commission expires: June 17, 2013



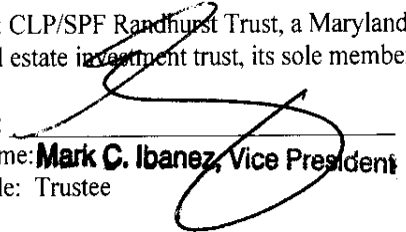
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ADDRESS OF LANDLORD:

LANDLORD:

RANDHURST SHOPPING CENTER LLC,
a Delaware limited liability company

By: CLP/SPF Randhurst Trust, a Maryland
real estate investment trust, its sole member

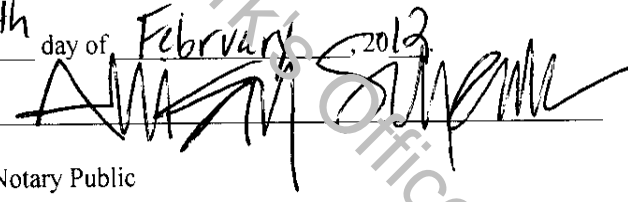
By: 
Name: **Mark C. Ibanez, Vice President**
Title: Trustee

Landlord's Address for Notices:

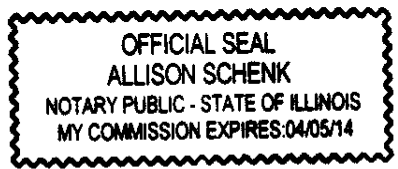
Randhurst Shopping Center LLC
401 N. Cattlemen Road, Suite 108
Sarasota, Florida 34232
Attn: Lease Administration
Telephone: () _____
Facsimile: () _____
Electronic Mail: _____

State of IL)
County of Cook)

I, Allison Schenk, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that MARK IBANEZ, the Trustee of CLP/SPF Randhurst Trust, a Maryland real estate investment trust, the sole member of Randhurst Shopping Center LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument in his/her capacity as Trustee of such CLP/SPF Randhurst Trust as his/her free and voluntary act, and as the free and voluntary act of such CLP/SPF Randhurst Trust, for the uses and purposes therein set forth.

Given under my hand and official seal, this 10th day of February, 2013.

Notary Public

My commission expires: 4/15/14



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ADDRESS OF TENANT:

3630 South Geyer Road
Suite 100
St. Louis, MO 63127
Attention: Lease Accounting

With a copy to:

Panera, LLC
63 Kendrick Avenue
Three Charles River Place
Needham, MA 02494
Attention: Development Counsel

TENANT:

PANERA, LLC.

By: _____
Name: Scott G. Blair
Title: Senior Vice President
General Counsel

Commonwealth of Massachusetts)
)
County of Norfolk)

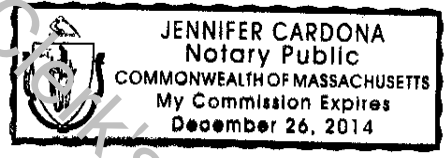
I, Jennifer Cardona, notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Scott G. Blair, the Senior Vice President and General Counsel of Panera, LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument in his capacity as Senior Vice President and General Counsel of such company as his free and voluntary act, and as the free and voluntary act of such company, for the uses and purposes therein set forth.

Given under my hand and official seal, this 26th day of January, 2012.

Jennifer Cardona

Notary Public

My commission expires: 12/26/2014



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SHOPPING CENTER

PARCEL 1: LOTS 1 AND 2 (EXCEPTING FROM SAID LOT ONE THAT PART TAKEN BY DEPARTMENT OF TRANSPORTATION STATE OF ILLINOIS IN CASE NO. 87L51078 AND ALSO EXCEPTING FROM SAID LOT ONE THAT PART CONVEYED TO THE PEOPLE OF THE STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION PURSUANT TO THAT CERTAIN QUIT CLAIM DEED RECORDED SEPTEMBER 29, 1995 AS DOCUMENT NO. 95664230) IN RANDHURST CENTER RESUBDIVISION - NO. 1, BEING A RESUBDIVISION OF LOT ONE IN RANDHURST CENTER, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT OF SAID RANDHURST CENTER RESUBDIVISION - NO. 1 RECORDED JULY 24, 1987 IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS AS DOCUMENT NO. 87408581 AND REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF SAID COUNTY AS DOCUMENT NO. LR3637429.

Lot 1 = 92.1039 acres and Lot 2 = 4.0237 acres Totaling: 96.1276

WELL PARCEL

PARCEL 3: NORTH 70 FEET OF THE WEST 70 FEET OF THE SOUTH 120 FEET OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Total acreage = .1125 acres