

# UNOFFICIAL COPY



Doc#: 1205533042 Fee: \$76.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 02/24/2012 10:36 AM Pg: 1 of 6

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (the "Agreement") is made and dated as of December 23, 2011, by and between Bank of America, National Association (hereinafter referred to as "Tenant"), Wells Fargo Bank, National Association (hereinafter referred to as "Mortgagee") and Division State Property LLC (hereinafter referred to as "Landlord").

WHEREAS, Mortgagee is the owner and holder of a promissory note dated December 23, 2011, made by Landlord payable to the order of Mortgagee (herein, as it may have been or may be from time to time renewed, extended, amended or supplemented, called the "Note"), secured, without limitation, by a Deed of Trust (herein, as it may have been or may be from time to time renewed, extended, amended or supplemented, called the "Deed of Trust") recorded in Volume 1200942118, of the Real Property Records of Cook County, Illinois, covering the land (the "Land") described in Exhibit "A" which is attached hereto and incorporated herein by reference, and the improvements thereon (such Land and improvements being herein together called the "Property," and the Deed of Trust, and any other liens held by Mortgagee against the Property to secure the Note, being herein together called the "Mortgage"); and

WHEREAS, Tenant, as tenant, has executed a lease dated on or about August 10, 2004, (the "Lease") with Landlord covering the portion of the Property described in the Lease (herein called the "Premises"), located at 1167 North State Street, Chicago, IL (IL1-107).

THEREFORE, for and in consideration of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants and agreements herein contained, Tenant, Landlord and Mortgagee hereby agree as follows:

1. Subject only to the rights of Tenant hereinafter set forth, the Lease and all rights of Tenant thereunder are subject and subordinate to the Mortgage and any renewals or extensions thereof. This provision is acknowledged by Tenant to be self-operative and no further instrument shall be required to effect this subordination of the Lease. However, nothing herein is intended or shall be construed to subject to the lien of the Mortgage any property owned by Tenant or removable from the Premises by Tenant under the terms of the Lease.

2. In the event of any foreclosure under the Mortgage, either by judicial proceeding or by power of sale, or if conveyance or transfer of the Property shall be made in lieu of foreclosure (any such foreclosure or conveyance or transfer in lieu of foreclosure being herein referred to as "Enforcement" and

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any party owning the Property or any interest therein as a result of Enforcement, and its successors and assigns, being herein called "Owner"), then the Lease shall not be terminated as a result of the Enforcement, whether by operation of law or otherwise. Notwithstanding the Enforcement, and the fact that the Lease is subordinate to the Mortgage, the Lease shall continue in full force and effect as a binding lease agreement between Owner and Tenant in accordance with its terms, the rights of Tenant under the Lease shall not be interfered with or disturbed by Owner, and Tenant shall retain all accrued rights, if any, to self-help, abatement and other remedies under the express terms of the Lease. Nothing herein shall negate the right of Owner to exercise the rights and remedies of Landlord under the Lease, including, without limitation, the right to terminate the Lease because of an Event of Default by Tenant under the Lease, and as to any breach or failure by Tenant under the Lease existing at the time of Enforcement, the Enforcement shall not operate to waive or abate the running of any notice or cure period or any action initiated by Landlord under the Lease to terminate the Lease on account of an Event of Default by Tenant. Nothing in this Agreement shall obligate Tenant to pay rent or other charges to Mortgagee until Mortgagee has succeeded to the interest of Landlord under the Lease and Tenant has received written notice thereof from Mortgagee, together with satisfactory evidence demonstrating that Mortgagee or Owner has succeeded to Landlord's interest under the Lease and directing where rent should be mailed. The term "Event of Default" as used herein means a breach or failure to perform by Tenant under the Lease which continues beyond the applicable cure or grace period, if any, provided in the Lease.

3. Tenant agrees that in the event of Enforcement, Tenant will attorn to Owner upon and subject to the terms and conditions of the Lease, including payment to Owner of all rentals and charges thereafter becoming due under the Lease, all without change in the terms or provisions of the Lease. Tenant agrees that Owner shall not be bound by (a) any payment of rent or additional rent for more than thirty (30) days in advance, except advance rental payments expressly provided for in the Lease, or (b) any payment of rent made to Landlord thirty (30) days after the date on which Owner notified Tenant in writing of its ownership of the Property as successor in interest to Landlord. Upon request by Tenant, Owner and Tenant shall execute and deliver an instrument or instruments confirming the non-disturbance and attornment herein provided for.

4. Tenant acknowledges that this Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement by Mortgagee.

5. Mortgagee may elect at any time to cause the Mortgage to be subordinate and junior to the Lease by filing an instrument in the real property records of the county in which the Property is located specifying that election and concurrently providing Tenant with written notice of that election.

6. All notices required or which any party desires to give hereunder shall be in writing and shall be addressed or delivered to the respective addresses set forth at the end of this Agreement, or to such other address as may have been previously designated by the intended recipient by notice given in accordance with this Section. If sent by prepaid, registered or certified mail (return receipt requested), the notice shall be deemed effective when the receipt is signed or when the attempted initial delivery is refused or cannot be made because of a change of address of which the sending party has not been notified; and if transmitted by personal delivery or via nationally recognized overnight mail courier service, the notice shall be effective when received. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt.

7. This Agreement shall inure to the benefit of and shall be binding upon Mortgagee, Landlord and Tenant and their respective successors and assigns, and any Owner and its heirs, personal representatives, successors and assigns. This Agreement and its validity, enforcement and interpretation,

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shall be governed by the laws of the State of Illinois and applicable United States federal law. 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.

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

**MORTGAGEE:**

Wells Fargo Bank, National Association

By: [Signature]  
Name: PAUL MAKHARAS  
Title: VICE PRESIDENT

**TENANT:**

Bank of America, National Association

By: [Signature]  
Name: Malissa Church  
Title: Vice President

**LANDLORD:**

Division State Property I LLC

By: [Signature]  
Name: DONALD R. WILSON, JR.  
Title: MANAGER

Address of Mortgagee:

Wells Fargo Bank, N.A.  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Address of Tenant:

13510 Ballantyne Corporate Place  
NC2-109-06-05  
Charlotte, North Carolina 28277  
Attention: (IL1-107)

Address of Landlord:

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

*Prepared by & mail to:  
Michael D. Barstein  
191 N. Wacker Dr  
#1800  
Chicago, IL 60606*

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(Tenant)

THE STATE OF NORTH CAROLINA )  
 )  
COUNTY OF MECKLENBURG )

This instrument was acknowledged before me on November 15, 2011, by Malissa Church, Vice President of Bank of America, National Association, a national banking association, on behalf of said Tenant.

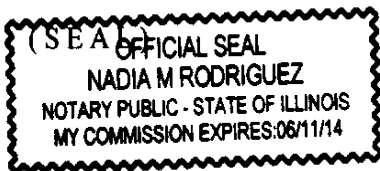


Irwin Feldman  
Notary Public, State of North Carolina  
My Commission Expires: May 20, 2014

(Mortgagee)

THE STATE OF IL )  
 )  
COUNTY OF COOK )

This instrument was acknowledged before me on December 23, 2011, by Paul Mokhatas of Wells Fargo Bank, a Vice President on behalf of said Mortgagee.



Nadia M. Rodriguez  
Notary Public, State of IL  
My Commission Expires: 6-11-14

(Landlord)

THE STATE OF Illinois )  
 )  
COUNTY OF COOK )

This instrument was acknowledged before me on December 21, 2011, by Donald R. Wilson, Jr. of Division State Property I LLC, a Manager, on behalf of said \_\_\_\_\_.



Amy Kinney  
Notary Public, State of Illinois  
My Commission Expires: 04/19/14

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Exhibit "A"

[Legal Description of Land]

COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_

COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_

Property of Cook County Clerk's Office

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## EXHIBIT "A"

### LEGAL DESCRIPTION OF REAL ESTATE

LOT 3 IN THE ASSESSOR'S SUBDIVISION OF LOT 6 IN GOTTFRIED KNAUSS SUBDIVISION OF THE NORTH 1/2 OF BLOCK 1 AND THE WEST 100 FEET OF THE SOUTH HALF OF SAID BLOCK 1 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PROPERTY ADDRESS OF REAL ESTATE:

1163-7 North State Street  
Chicago, Illinois

### PERMANENT TAX INDEX NUMBERS:

17-03-200-074-0000  
17-03-200-075-0000  
17-03-200-076-0000