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Doc#: 1229229051 Fee: \$48.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/18/2012 11:46 AM Pg: 1 of 6

Property of Cook County Clerk's Office

8893823 DI CB 576

SUBORDINATION NON-DISTURBANCE AND ATTORNMENT AGREEMENT

DATE: OCTOBER 17, 2012
LENDER: AMERICAN FIDELITY ASSURANCE COMPANY
LANDLORD: BALANCE PROPERTY GROUP, L.L.C.
TENANT: CASH AMERICA, INC. OF ILLINOIS
PIN: 19 04 423 047
CKA: 4558 S CICERO, CHICAGO, ILLINOIS

PREPARED BY:
JAMES L. BRAT, ESQ
PIRCHER NICHOLS & MEEKS
1925 CENTURY PARK EAST
SUITE 1700
LOS ANGELES CA 90067-6077

AFTER RECORDING RETURN TO:
AMERICAN FIDELITY ASSURANCE CO
5100 N. CLASSEN BOULEVARD
SUITE 400
OKLAHOMA CITY, OK 73118
ATTN: STEFFANI R. TUCKER

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT (the "Agreement") is made as of the date set forth below, by and between AMERICAN FIDELITY ASSURANCE COMPANY, an Oklahoma corporation ("Lender"), BALANCE PROPERTY GROUP, L.L.C., an Illinois limited liability company ("Landlord"), and CASH AMERICA, INC. OF ILLINOIS, an Illinois corporation ("Tenant")

W I T N E S S E T H

WHEREAS, Lender is the owner and Lender of that certain lien evidenced by a Deed of Trust, Mortgage or other lien instrument, (as such Deed of Trust, Mortgage or other lien instrument may be amended, increased, renewed, modified, consolidated, replaced, combined, substituted, severed, split, spread or extended, being herein referred to as the "Lien Instrument") benefiting Lender and executed by Landlord, dated 10-17-12 and filed of record in Book _____ Page _____ of the Real Property Records of Cook County, Illinois; 1229229050

WHEREAS, Landlord is the owner of the property covered by the lien of the above-described Lien Instrument ("Property"), which Property is more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference; and

WHEREAS, Tenant and Landlord are parties to that certain Lease dated as of March 19, 2012 (the "Lease") covering the Property as more particularly described in said Lease.

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

1. Landlord and Lender represent and warrant they are the only parties to the Lien Instrument which is fully executed and recorded in the manner described above. As used in this Agreement, the term "Successor" shall mean Lender or any person acquiring or succeeding to, all or any interest of Landlord in and to the Property and/or the Lease as a result of (i) any action for foreclosure or other enforcement of the Lien Instrument, (ii) any actual foreclosure or other proceedings for the enforcement of the Lien Instrument, or (iii) by reason of a transfer of all or any of Landlord's interest in and to the Property and/or the Lease pursuant to the taking of a deed or assignment in lieu of foreclosure (or similar device), together with any of such party's successors and assigns.
2. Tenant covenants and agrees that the Lease now is and shall at all times continue to be subject and subordinate in each and every respect to the Lien Instrument and to all renewals, modifications, and extensions thereof, to the full extent of the principal, interest and other sums secured thereby.
3. As long as Tenant is in compliance with the terms of this Agreement and is not in default in the performance of its obligations under the Lease beyond any applicable notice and cure period, no Successor shall name Tenant as a party defendant in any action for foreclosure or other enforcement of the Lien Instrument, nor shall the Lease be terminated by any Successor in connection with, or by reason of, foreclosure or other proceedings for the enforcement of the Lien Instrument, or by reason of a transfer of any or all of Landlord's interest in and to the Property and/or the Lease pursuant to the taking of a deed or assignment in lieu of foreclosure (or similar device), nor shall Tenant's use, enjoyment, or possession of the Property be interfered with, or in any way disturbed, by any Successor, except that the person acquiring, or succeeding to, any interest of Landlord in and to the Property and/or the Lease as a result of any such action or proceeding shall not be: (a) subject to any credits, offsets, expenses, or claims which Tenant might have against any prior landlord (including Landlord), (b) bound by any prepayment of more than one month's rent or additional rent, (c) liable for any act or omission of any prior landlord (including Landlord), or (d) required to account for any security deposit other than any security deposit actually delivered to the Successor.
4. If the interest of Landlord under the Lease shall be transferred by reason of foreclosure or other proceedings for the enforcement of the Lien Instrument or the obligations which it secures or pursuant to a taking of a deed or assignment in lieu of foreclosure (or similar device), Tenant shall be bound to the Successor and, except as provided in this Agreement, the Successor shall be bound to Tenant under all of the terms, covenants and conditions of the Lease for the unexpired balance of the term thereof remaining (and any extensions, if exercised), with the same force and effect as if the Successor were the landlord thereunder, and Tenant does hereby (i) agree to attorn to the Successor, including Lender if it be the Successor, as its landlord, (ii) affirm its obligations under the Lease, and (iii) agree to make payments of all sums due under the Lease to the Successor, said attornment, affirmation and agreement

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to be effective and self-operative without the execution of any further instruments, upon the Successor succeeding to the interest of Landlord under the Lease.

5. Tenant represents and warrants as of the date hereof that to the best of Tenant's knowledge: (a) the copy of the Lease delivered to Lender contemporaneously with Tenant's execution of this Agreement is true and correct; (b) the Lease is in full force and effect, and except as provided to Lender pursuant to Paragraph 5(a) above, there are no amendments, modifications, or supplements thereto; (c) Landlord is not in default in the performance of the terms and provisions of the Lease; (d) there are no existing defenses which Tenant has against the full enforcement of the Lease by Landlord, (e) there are no offsets or credits against rentals payable under the Lease; and (f) Tenant is not in any respect in default in the performance of the terms and conditions of the Lease.

6. Anything herein or in the Lease to the contrary notwithstanding, in the event that a Successor shall succeed to the interest of Landlord under the Lease, the Successor shall have no obligation, nor incur any liability, beyond its then interest, if any, in the Property and Tenant shall look exclusively to such interest of the Successor, if any in the Property for the payment and discharge of any obligations imposed upon the Successor hereunder or under the Lease. Tenant agrees that with respect to any judgment which may be obtained or secured by Tenant against the Successor, Tenant shall look solely to the estate or interest owned by the Successor in the Property, and Tenant will not collect or attempt to collect any such judgment out of any other assets of the Successor.

7. Tenant acknowledges that it has notice that Landlord's interest under the Lease and in the rent and other sums due thereunder have been assigned to Lender as part of the security for the indebtedness secured by the Lien Instrument. In the event that Lender notifies Tenant of any event of default by the Landlord under the Lien Instrument and demands that Tenant pay rent and all other sums due under the Lease to Lender, Tenant agrees that it shall pay rent and all other sums due under the Lease directly to Lender. Any payments made to Lender by Tenant shall not affect or impair other rights and remedies of Lender under the Lien Instrument or otherwise against Landlord. Landlord hereby acknowledges and agrees that Tenant may pay Lender such sums upon receipt of such written notice from Lender without the need for obtaining any further consent or approval from Landlord.

8. This Agreement represents the entire agreement between the parties hereto with regard to the subordination of the Lease and the leasehold interest of Tenant thereunder to the lien of the Lien Instrument, and shall supersede and control any prior agreements as to such subordination, including, but not limited to, those provisions, if any, contained in the Lease, which provide for the subordination of the Lease and the leasehold interest of Tenant thereunder to a mortgage executed after the execution of the Lease. This Agreement may not be modified except by an agreement in writing signed by the parties or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns.

9. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Lien Instrument except as specifically set forth herein. Nothing contained in this Agreement shall in any way be deemed to be a subordination of the lien created by the Lien Instrument to any inferior or secondary title exception or encumbrances provided, specified or discussed in the Lease.

10. All notices delivered pursuant to this Agreement must be in writing and delivered by hand, sent by any nationally recognized overnight courier service providing dated evidence of delivery for next business day delivery or mailed by United States certified mail, return receipt requested to the person to whom the notice is being delivered at its address set forth below. Such notices shall be deemed to have been properly given or served for all purposes (a) if hand delivered, upon delivery, (b) if mailed by United States certified mail, postage prepaid, return receipt requested, three (3) business days after deposit with the United States Postal Service, or (c) if sent by a nationally recognized overnight courier service for next business day delivery, one (1) business day after deposit with the overnight courier. Any party may change the place that notice and demands are to be sent by written notice delivered in accordance with this Agreement.

11. This Agreement shall be governed by the laws of the state in which the property is located. If any of the terms of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of any such terms to any person or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12. In the event either party defaults in the performance of any of the terms of this Agreement and the other party employs an attorney in connection therewith, the defaulting party agrees to pay the prevailing party's reasonable attorney's fees.

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13. This Agreement may be executed in separate or multiple counterparts, each of which shall be deemed an original, but all of which together shall be considered as one and the same Agreement.

EXECUTED to be effective as of _____, 2012.

TENANT:

CASH AMERICA, INC. OF ILLINOIS,
An Illinois corporation

By: 
J. Curtis Linscott, Executive Vice President

Tenant's Address for Notices:

1600 West 7th Street
Fort Worth, TX 76102

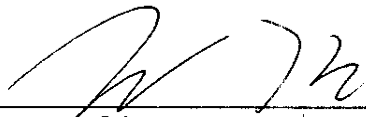
Attention: Director – Store Development

Telephone: 817-335-1100

Telecopy: 817-570-1695

LANDLORD:

BALANCE PROPERTY GROUP, L.L.C.,
An Illinois limited liability company

By: 
Name: Jonathan Haus
Title: President

ADDRESS FOR NOTICES:

200 West Madison Street
Suite 4200
Chicago, IL 60606-3465

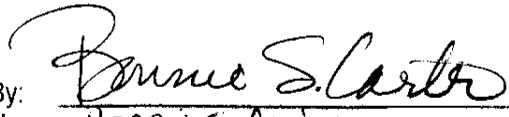
Attention: Lori Kapaldo

Telephone: 312-332-4173

Telecopy: 312-332-2119

LENDER:

AMERICAN FIDELITY ASSURANCE COMPANY,
An Oklahoma corporation

By: 
Name: Bonnie S. Carter
Title: Asst. Vice President

Lender's Address for Notices:

5100 North Classen Blvd.
Suite 400
Oklahoma City, OK 73118

Attention: Bonnie S. Carter

Telephone: 405.503.5457

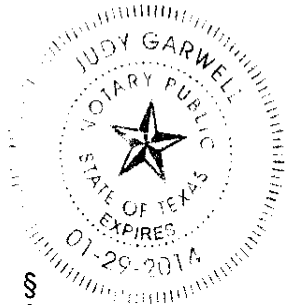
Telecopy: 405.503.5632

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STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on this the 27th day of September, 2012, by J. Curtis Linscott, Executive Vice President of **CASH AMERICA, INC. OF ILLINOIS**, an Illinois corporation, on behalf of said corporation.



Judy Garwell
Notary Public, State of Texas
Judy Garwell
Notary's Printed Name
My Commission Expires: 1-29-14

STATE OF Illinois §
 §
COUNTY OF Will §

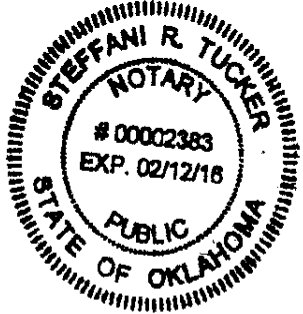
This instrument was acknowledged before me on this the 10th day of October, 2012, by Jonathan M. Hanus, President of **BALANCE PROPERTY GROUP, L.L.C.**, an Illinois limited liability company, on behalf of said company.



Lori L. Kapaldo
Notary Public, State of ILLINOIS
LORI L. Kapaldo
Notary's Printed Name
My Commission Expires: 03/08/16

STATE OF Oklahoma §
 §
COUNTY OF Oklahoma §

This instrument was acknowledged before me on this the 11th day of October 2012, by Bonnie S. Carter, Asst. Vice President of **AMERICAN FIDELITY ASSURANCE COMPANY**, an Oklahoma corporation, on behalf of said corporation.



Steffani R. Tucker
Notary Public, State of Oklahoma
Steffani R. Tucker
Notary's Printed Name
My Commission Expires: 2-12-16

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EXHIBIT "A"

Description of Property

LOTS 20, 21 AND 22 IN BLOCK 20 IN FREDERICK H. BARTLETT'S CENTRAL CHICAGO, BEING A SUBDIVISION IN THE SE ¼ OF SECTION 4 AND THE NE ¼ AND THE SE ¼ OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Address of Property: 4558 S. Cicero Avenue, Chicago, Illinois 60638

Permanent Index Number: 19-04-423-047-0000

Property of Cook County Clerk's Office

RECORD AND RETURN TO:

CASH AMERICA, INC. OF ILLINOIS
ATTENTION: P. CHRISTIAN SCHRODER - LEGAL DEPARTMENT
1600 WEST 7TH STREET
FORT WORTH, TEXAS 76102