



1334519089

Hartford Loan No. BHM017944

Doc#: 1334519089 Fee: \$88.00

RHSP Fee: \$9.00 RPRF Fee: \$1.00

Karen A. Yarbrough

Cook County Recorder of Deeds

Date: 12/11/2013 02:49 PM Pg: 1 of 9

SUBORDINATION, NONDISTURBANCE AND ATTORNMEN T AGREEMENT

Sepaffina Inc
ME
THIS AGREEMENT is made this 19 day of ~~February~~ ^{Sept.}, 2013 by and among HARTFORD LIFE INSURANCE COMPANY, a Connecticut corporation, with an office c/o Hartford Investment Management Company, 55 Farmington Ave., Hartford, Connecticut 06105 Attention: Real Estate Asset Management ("**Mortgagee**"), ~~Sepaffina Inc.~~, an Illinois corporation ("**Tenant**"), and North Dearborn Operating Associates L. P., a New Mexico limited partnership ("**Borrower**").



WITNESSETH:

WHEREAS, Mortgagee is the holder of a Promissory Note from Borrower dated August 12, 2005, which Promissory Note is secured by a Mortgage, Security Agreement and Fixture Filing dated August 12, 2005 and recorded with the Cook County Recorder of Deeds on August 17, 2005, as Document No. 0622934030 (the "**Mortgage**"). The Mortgage encumbers certain property known 10 North Dearborn Street, Chicago, Illinois, as more fully described in Exhibit "A" attached hereto (the "**Mortgaged Property**"); and

WHEREAS, by virtue of that certain lease (as modified through the date hereof, the "**Lease**") dated October 1, 1993 between Borrower (as "**Landlord**") and Tenant, Tenant has leased approximately 4,014 rentable square feet of space (the "**Demised Premises**") within the Mortgaged Property, as more particularly described in the Lease; and

WHEREAS, the Lease has been modified pursuant to the terms of (i) the First Amendment to Rider C of Lease dated July 20, 1998; (ii) the Second Amendment dated May 17, 2002, and (iii) the Third Amendment dated January 14, 2013; and

WHEREAS, Tenant desires to be assured of continued occupancy of the Demised Premises under the terms of the Lease and subject to the terms of the Mortgage;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto, intending to be legally bound hereby, hereby agree as follows:

1. Tenant agrees that:
 - (a) subject to this Agreement, the Lease and Tenant's leasehold estate and any and all estates, rights, options, liens and charges therein contained or created thereby are, and shall be and remain, subject and subordinate in all respects to the lien and effects of the Mortgage and to all of the terms, conditions and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications, consolidations or replacements thereof, with the same force and effect as if the Mortgage had been executed, delivered and duly recorded prior to the execution and delivery of the Lease;
 - (b) Tenant shall provide to Mortgagee, within 15 days following Mortgagee's request, an estoppel certificate certifying that no defaults, claims or offsets exist under the Lease, and no events or situations exist which, with the passage of time, could become a default or the basis for a claim or offset against Borrower by Tenant under the Lease or, if the same exist, describing such claimed defaults, claims or offsets;
 - (c) Tenant shall forward to Mortgagee copies of any notice, claim or demand given or made by Tenant to or on Borrower, in all cases concurrently with forwarding same to Borrower, such copies to be provided to Mortgagee at the address of Mortgagee set forth above by the same method of mailing as the statement, notice, claim or demand was made or given to or on Borrower;
 - (d) without the prior written consent of Mortgagee (such consent not to be unreasonably withheld, conditioned or delayed): (i) no rent or other sums due under the Lease shall be paid more than 30 days in advance of the due date therefor established by the Lease, except the security deposit, if any, identified in the Lease; (ii) no modification or amendment shall be made to the terms of the Lease; (iii) the term of the Lease shall not be extended or renewed, except in connection with renewals expressly contemplated by the terms of the Lease as of the date hereof; (iv) the Lease shall not be terminated by Tenant, nor shall Tenant tender a surrender of the Lease;

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and (v) Tenant shall only sublet the Demised Premises or assign Tenant's interest in the Lease in accordance with the provisions of the Lease in effect as of the date hereof;

(e) if any act or omission by Borrower occurs that would give Tenant the right to terminate the Lease or to claim a partial or total eviction, reduce rents or to credit, abatement or offset any amounts against future rents, Tenant will not exercise such right until (i) it shall have given written notice of such act or omission to Mortgagee, and (ii) a reasonable period of time for remedying such act or omission shall have elapsed following such notice to Mortgagee (during which period Tenant shall give access to the Demised Premises to Mortgagee or its representatives to enable Mortgagee, if it so elects, to cure such default); and if it so elects, Mortgagee shall have the right, but not the obligation, to cure any default by Borrower under the Lease within said reasonable period of time, including, if necessary to cure such defaults, the period of time necessary to enable Mortgagee to gain access to and control over the Demised Premises;

(f) notices required to be given to Mortgagee under this Agreement will be given to any successor-in-interest of Mortgagee provided that, prior to the event for which notice is required to be given to Mortgagee, such successor-in-interest of Mortgagee shall have given written notice to Tenant of its acquisition of the Mortgagee's interest under the Mortgage, and designated the address to which such notice is to be directed;

(g) if Mortgagee or any subsequent holder of the Mortgage, or anyone claiming from or through any such holder, either through foreclosure or otherwise (collectively, a "**Mortgagee Party**"), shall enter into and lawfully become possessed of the Mortgaged Property, or shall succeed to the rights of Borrower under the Lease, then Tenant shall attorn to, and recognize, such Mortgagee Party as "**Landlord**" under the Lease for the unexpired balance of the term of the Lease and any extension or renewal thereof, subject to all of the terms and conditions of the Lease;

(h) Tenant has no right or option, whether under the Lease or otherwise, to purchase any portion of the Mortgaged Property or any interest therein, and to the extent that Tenant has or hereafter acquires any such right or option, the same is hereby subordinated to the Mortgage;

(i) If a Mortgagee Party forecloses the Mortgage or takes title to the Mortgaged Property pursuant to a deed-in-lieu of foreclosure or enters upon and takes actual, unopposed possession of the Mortgaged Property, such Mortgagee Party shall not:

- (1) be liable or responsible to Tenant for any act or omission of any prior "**Landlord**" (including Borrower);
- (2) be liable or responsible to Tenant for any deposit or security which was delivered by Tenant to any prior "**Landlord**" (including Borrower) but which was not subsequently delivered to Mortgagee;
- (3) be bound by any provision in the Lease relating to the application of insurance or condemnation proceeds;
- (4) be bound by any modification to the Lease made after the date hereof without Mortgagee's prior written consent;
- (5) be obligated or liable to Tenant with respect to the construction, completion or renovation of any improvements in the Demised Premises (other than "**Landlord**" renovation obligations that arise after vesting of title to the Mortgaged Property in such Mortgagee Party via actual foreclosure of the Mortgage or acceptance of a deed-in-lieu of foreclosure or entry under and taking actual, unopposed possession of the Mortgaged Property by such Mortgagee Party);
- (6) be bound by any obligation to repair or restore the Demised Premises or Mortgaged Property (other than "**Landlord**" repair or restoration obligations that arise after vesting of title to the Mortgaged Property in such Mortgagee Party via actual foreclosure of the Mortgage or acceptance of a deed-in-lieu of foreclosure or entry under and taking actual, unopposed possession of the Mortgaged Property by such Mortgagee Party);
- (7) be bound by any restriction on competition beyond the Demised Premises contained in the Lease;

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(8) be subject to any claims, defenses or offsets which Tenant might have against any prior "**Landlord**" (including Borrower); or

(9) be liable for any costs or expenses related to any indemnification or representation provided by any prior "**Landlord**" (including Borrower) with respect to the Demised Premises or the Mortgaged Property, which indemnification obligations are based upon events occurring or conditions existing prior to vesting of title to the Mortgaged Property in such Mortgagee Party via actual foreclosure of the Mortgage or acceptance of a deed-in-lieu of foreclosure or entry under and taking actual, unopposed possession of the Mortgaged Property by such Mortgagee Party;

(j) the institution of any action or other proceedings by a Mortgagee Party under the Mortgage in order to realize upon Borrower's interest in the Mortgaged Property shall not result in the cancellation or termination of the Lease or Tenant's obligations thereunder; if, however, by operation of law, or otherwise, the institution of any action or other proceedings by a Mortgagee Party or the entry under and taking actual, unopposed possession of the Demised Premises shall result in the cancellation or termination of the Lease or Tenant's obligations thereunder, Tenant shall, upon request of a Mortgagee Party, execute and deliver a new lease of the Demised Premises containing the same terms and conditions as the Lease, except that the term and any extension thereof shall be the unexpired term and unexpired extended term or terms of the Lease as of the date of execution and delivery of said new lease;

(k) any right of Tenant to make any claim or receive any proceeds arising out of a taking by eminent domain shall be subject and subordinate to the rights of Mortgagee under the Mortgage; and

(l) Tenant agrees that except for ordinary cleaning supplies and other office products stored in compliance with law, no hazardous or toxic substances, waste or materials (including, without limitation, PCB's or asbestos) will be used or stored in the Demised Premises and that no such substances, waste or materials will be released, discharged or disposed of from the Demised Premises.

2. Mortgagee hereby agrees that :

(a) so long as Tenant is not in default under any of its duties and obligations under the Lease (beyond all applicable grace or cure periods given Tenant under the Lease):

(1) Tenant's possession and occupancy of the Demised Premises, and Tenant's rights and privileges under the Lease, or any extension or renewal thereof which may be effected in accordance with the terms of the Lease, shall not be disturbed by any Mortgagee Party; and

(2) no Mortgagee Party shall join Tenant as party to any action or proceeding brought as a result of a default under the Mortgage for the purposes of terminating Tenant's interest and estate under the Lease; and

(b) if the interest of Borrower shall vest in any Mortgagee Party by reason of actual foreclosure, acceptance of a deed-in-lieu of foreclosure or in any other manner, each Mortgagee Party agrees to be bound by all of the undischarged obligations of "**Landlord**" under the Lease occurring and arising after title to the Mortgaged Property, or actual, unopposed possession of the Mortgaged Property, vests in such Mortgagee Party.

3. Borrower hereby irrevocably authorizes and directs Tenant, upon receipt from a Mortgagee Party of written notice to do so, to pay all rents and other monies payable by Tenant under the Lease to or at the direction of such Mortgagee Party. Borrower irrevocably releases Tenant of any liability to Borrower for all payments so made, and Borrower agrees to defend, indemnify and hold Tenant harmless from and against any and all claims, demands, losses, or liabilities asserted by, through, or under Borrower for any and all payments so made. Tenant agrees that upon receipt of such notice it will pay all monies then due and becoming due from Tenant under the Lease to or at the direction of a Mortgagee Party, notwithstanding any provision of the Lease to the contrary. Such payments shall continue until such Mortgagee Party directs Tenant otherwise in writing. Tenant agrees that neither a Mortgagee Party's demanding or receiving any such payments, nor a Mortgagee Party's exercising any other right, remedy, privilege or power granted by the Lease or this Agreement, will operate to impose any liability upon such Mortgagee Party for performance of any obligation of "**Landlord**" under the Lease unless and until such Mortgagee Party assumes actual, unopposed possession of the Mortgaged Property or title to the Mortgaged Property vests in such Mortgagee Party.

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4. Any notice, demand or consent hereunder shall be in writing and may be given or mailed by mailing the same by registered or certified mail, return receipt requested, at the addresses set forth in the introduction to this Agreement, and if intended for Tenant, with a copy to the Demised Premises. Any party may designate a new address by notice in writing to the other parties. Any notice given in accordance herewith shall be effective upon deposit in the United States mails in accordance herewith.

5. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto.

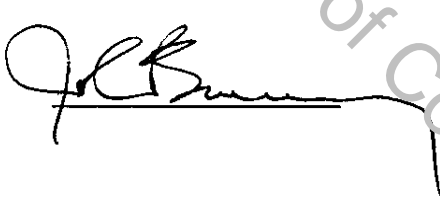
6. Any claim by Tenant against a Mortgagee Party under the Lease or this Agreement shall be satisfied solely out of the interest of such Mortgagee Party in the Mortgaged Property, and Tenant shall not seek recovery against or out of any other assets of such Mortgagee Party.


7. This Agreement shall be governed by, and construed under the laws of the State of Illinois. This Agreement may be executed in any number of counterparts which, when taken together, shall constitute a single original document.

IN WITNESS WHEREOF, the parties hereto have caused the execution hereof as a sealed instrument as of the day and year first above written.

ATTEST:

TENANT: SOPRAFFINA INC.

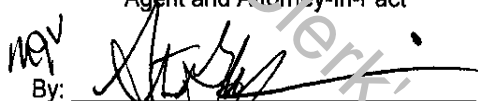


By: 
Name: JOHN P. ENCENER
Title: Authorized PRESIDENT

ATTEST:

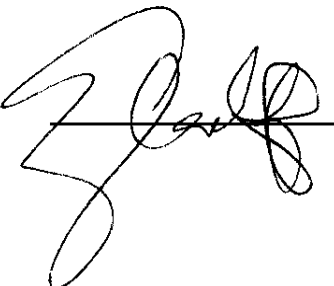
MORTGAGEE: HARTFORD LIFE INSURANCE COMPANY, a Connecticut corporation

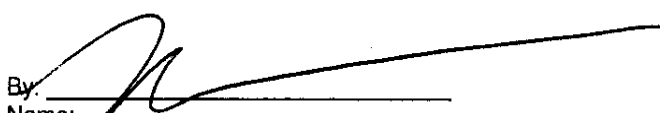
By: Hartford Investment Management Company, Its Agent and Attorney-In-Fact

By: 
Name: Steven G. Kalmin
Title: Authorized Senior Vice President

ATTEST:

LANDLORD/BORROWER: NORTH DEARBORN OPERATING ASSOCIATES L.P.

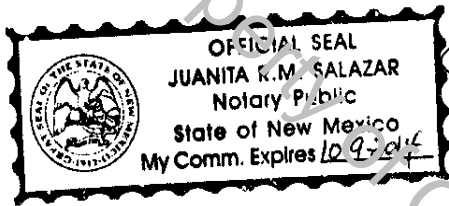


By: 
Name: _____
Title: Authorized

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STATE OF New Mexico)
COUNTY OF Santa Fe) SS.

On this 15th day of ~~February~~ May, 2013, before me, a notary public, personally appeared Michael Mahony, to me personally known, being by me duly sworn, did say that he is the Chief Operating Officer of North Dearborn Operating Associates LC, and that said instrument was signed on behalf of said North Dearborn Operating Associates LC by authority of his office and Michael Mahony acknowledged the foregoing instrument to be the free act and deed of said North Dearborn Operating Associates LC.



[Handwritten Signature]
Notary Public
My Commission Expires: 10-9-2014

Cook County Clerk's Office

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EXHIBIT "A"

Description of Mortgaged Property

Property of Cook County Clerk's Office

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EXHIBIT "A"

LEGAL DESCRIPTION

THE NORTH ½ OF LOT 8 IN THE BLOCK 57 IN THE ORIGINAL TOWN OF CHICAGO (EXCEPT THE SOUTH 10 INCHES THEREOF) IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

10 N. Dearborn, Chicago, IL 60602

Property of Cook County Clerk's Office