

# UNOFFICIAL COPY



Doc#: 1335022033 Fee: \$58.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 12/16/2013 10:03 AM Pg: 1 of 11

This instrument was prepared by  
and when recorded return to:

Roberts McGivney Zagotta LLC  
55 West Monroe Street, Suite 1700  
Chicago, Illinois 60603  
Attn: Nicholas Zagotta

*071-804405211100305*

## SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance, and Attornment Agreement (the "Agreement"), made and entered into as of the 10<sup>th</sup> day of December, 2013, by and between BMO HARRIS BANK N.A., a national banking association ("Lender"), Southwood Corporation, an Illinois not-for-profit corporation ("Lessor"), and Human Resources Development Institute, Inc., an Illinois not-for-profit corporation ("Lessee").

### WITNESSETH THAT:

WHEREAS, by that certain Commercial Lease by and between Lessor and Lessee dated as of April 1, 2011 (as may be further amended, restated, supplemented or otherwise modified from time to time, the "Lease"), Lessee leased from Lessor space in a building located at 8151 South Western Avenue, Chicago, Illinois ("Premises") located upon the land situated in the City of Chicago, County of Cook and State of Illinois, more particularly described on Exhibit A attached hereto and hereby made a part hereof.

WHEREAS, the Premises have been mortgaged to Lender under a Mortgage and Security Agreement with Assignment of Rents ("Mortgage"), dated as of December 10, 2013, filed for record on the \_\_\_ day of December, 2013, in the Cook County Recorder of Deeds Office, and recorded as security for a loan from Lender to Lessor ("Loan") in the aggregate principal amount of up to \$2,350,000;

WHEREAS, Lender has required the execution of this Agreement as a condition to making said Loan; and

WHEREAS, Lender, Lessor and Lessee have agreed to the following, with respect to their mutual rights and obligations pursuant to and under the Lease and the Mortgage.

*Box 734*

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NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the making of the Loan by Lender to Lessor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. Lessee's interest in the Lease, and all rights of Lessee thereunder, including but not limited to any option in favor of Lessee to renew the Lease and/or to purchase the Premises set forth in the Lease, shall be and hereby are declared to be subject and subordinate to the Mortgage in all respects. The term "Mortgage", as used herein, shall include the Mortgage and any and all amendments, supplements, modifications, renewals, extensions or replacements thereto, thereof or therefor.

2. Lender does hereby agree that the rights of Lessee under the Lease shall remain in full force and effect, and its possession of the Premises thereunder shall remain undisturbed by Lender during the term of the Lease, and during any renewal or extension thereof in accordance with its terms; provided Lessee shall have performed and shall continue to perform all of the covenants and conditions of the Lease to be performed by Lessee and shall not be in default thereunder.

3. After the receipt by Lessee of notice from Lender of completion of a foreclosure under the Mortgage or that Lender has received a conveyance of the Premises in lieu of foreclosure, Lessee will attorn to and recognize Lender, its successors and assigns, or any purchaser at the foreclosure sale, as its substitute lessor under the Lease, and, having thus attorned, Lessee's possession shall not thereafter be disturbed by Lender during the term of the Lease, and during any renewal or extension thereof in accordance with its terms; provided, and as long as, Lessee shall continue to pay the rental provided under the Lease in the manner provided therein and otherwise to observe and perform the covenants, terms and conditions of the Lease to be observed and performed by Lessee thereunder in all respects. The parties shall execute and deliver, upon request, appropriate agreements of attornment and recognition, but this Agreement shall be deemed to be self-operative, and no such separate agreements shall be required to effectuate the foregoing attornment and recognition. Any such attornment and recognition of a substitute lessor shall be upon all of the terms, covenants, conditions and agreements as are set forth in the Lease, except as amended hereby.

4. In the event that Lender or any other person, party or entity becomes the owner of the Premises ("*New Owner*") as a result of a foreclosure sale under the Mortgage or a conveyance in lieu of foreclosure, Lessee shall have no claim against the New Owner resulting from, and the New Owner shall not be liable for, any act, omission and/or breach of the Lease by any prior or subsequent landlord under the Lease, including but not limited to Lessor; and the rights of the New Owner in and to the Premises and in, to and under the Lease shall not be subject to any right of set-off or defense which Lessee may have against any prior landlord under the Lease, including but not limited to Lessor. In addition, the New Owner shall not be (a) bound by any rent or additional rent that Lessee might have paid for more than one (1) month in advance to any prior lessor (including Lessor); (b) bound by any amendment or modification of the Lease made after the date of this Agreement without Lender's prior written consent; (c) liable for the return of

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any security deposit to the extent not received by New Owner; or (d) obligated or liable with respect to the construction and completion of any improvements for Lessee's use and occupancy. Upon any sale or other transfer by a New Owner of its interest in the Premises after acquiring title to the same, said New Owner shall thereupon automatically be released and discharged from all liability thereafter accruing under the Lease.

5. Notwithstanding anything to the contrary herein set forth, in the event a New Owner becomes the owner of the Premises as a result of a foreclosure sale under the Mortgage or a conveyance in lieu of foreclosure, the New Owner shall not be bound by any provision of the Lease relating to (a) the application of insurance or condemnation proceeds or the restoration of the Premises by the landlord in the event of a casualty loss thereto or a taking thereof, or (b) restrictions on the use of other properties owned by Lessor or the New Owner for purposes which compete with Lessee. The New Owner shall have the option either to use any such insurance or condemnation proceeds to restore the Premises in accordance with the Lease or with the provisions of the Mortgage or to terminate the Lease and retain all such proceeds as its own.

6. Lessee shall not prepay any of the rents or income due from the Premises for more than one (1) month in advance, except with the written consent of Lender.

7. The Lease may be amended or altered only with the written consent of Lender.

8. Lessee agrees not to terminate the Lease by reason of any default of Lessor without prior written notice thereof to Lender and the lapse thereafter of such time as under the Lease was granted to Lessor in which to remedy the default, and the lapse of thirty (30) days after the expiration of such time as Lessor was permitted to cure such default; provided, however, that with respect to any default of Lessor under the Lease which cannot be remedied by Lender within such time, if Lender commences to cure such default within such time and thereafter diligently proceeds with such efforts, Lender shall have such time as is reasonably necessary to complete curing such default.

9. After notice is given to Lessee, pursuant to the Mortgage, that the rentals under the Lease should be paid to Lender, Lessee shall pay to Lender all rentals and other monies due and to become due to Lessor under the Lease, and Lessor hereby expressly authorizes Lessee to make such payments to Lender and hereby releases and discharges Lessee of and from any liability to Lessor on account of such payments.

10. In the event that Lender shall acquire title to the Premises, Lender shall have no obligation, nor incur any liability, beyond Lender's then interest, if any, in the Premises, and Lessee shall look exclusively to such interest of Lender, if any, in the Premises for the payment and discharge or any obligations or liability imposed upon Lender hereunder, or under the Lease.

11. Neither Lessor nor Lessee shall permit the Lease to become subordinate to the lien of any mortgage or security instrument, other than the Mortgage.

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12. Each party hereto shall be entitled to specific performance of the covenants, agreements and rights contained in this Agreement. It is the express intent of all parties hereto that all remedies provided at law or in equity, including the right to specific performance as herein provided, shall be cumulative.

13. This Agreement may not be amended or modified in any manner other than by an agreement in writing signed by all of the parties hereto.

14. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns, including any purchaser of the Premises at a foreclosure sale.

15. All notices, demands or documents which are required or permitted to be given or served hereunder shall be in writing, and shall be deemed given or served when delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Lender: BMO HARRIS BANK N.A.  
111 West Monroe Street  
Chicago, IL 60603  
Attention: Mariola Dziubasik, Assistant Vice President

If to Lessor: Southwood Corporation  
222 S. Jefferson Street, Suite 200  
Chicago, IL 60661  
Attention: Joel Johnson, President

If to Lessee: Human Resources Development Institute, Inc.  
222 S. Jefferson Street, Suite 200  
Chicago, IL 60661  
Attention: Joel Johnson, President

Each party hereto may change its above-stated address from time to time by serving written notice of the change upon the other parties hereto as above provided at least ten (10) days prior to the effective date of said change.

16. This Agreement and the Lease shall be governed by and construed and interpreted in accordance with the laws of the State of Illinois.

17. Lessee has executed this Agreement for the purpose of inducing Lender to make the Loan and realizes that Lender will rely upon this Agreement in making the Loan.

[SIGNATURE PAGE TO FOLLOW]

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IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first above written.

LENDER:

BMO HARRIS BANK N.A.,  
a national banking association

By: M. Dziubasik  
Name: Mariola Dziubasik  
Its: Assistant Vice President

LESSOR:

SOUTHWOOD CORPORATION,  
an Illinois not-for-profit corporation

By: \_\_\_\_\_  
Name: Joel Johnson  
Its: President

LESSEE:

HUMAN RESOURCES DEVELOPMENT INSTITUTE, INC.,  
an Illinois not-for-profit corporation

By: \_\_\_\_\_  
Name: Joel Johnson  
Its: President and CEO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first above written.

LENDER:

BMO HARRIS BANK N.A.,  
a national banking association

By: \_\_\_\_\_  
Name: Mariola Dziubasik  
Its: Assistant Vice President

LESSOR:

SOUTHWOOD CORPORATION,  
an Illinois not-for-profit corporation

By: \_\_\_\_\_  
Name: Joel Johnson  
Its: President

LESSEE:

HUMAN RESOURCES DEVELOPMENT INSTITUTE, INC.,  
an Illinois not-for-profit corporation

By: \_\_\_\_\_  
Name: Joel Johnson  
Its: President and CEO

By: \_\_\_\_\_  
Name: John S. Williams  
Its: Chief of Finance

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STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK        )

I, JAYNE L. MCGIVNEY, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Mariola Dziubasik, an Assistant Vice President of BMO HARRIS BANK N.A., a national banking association ("Lender"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Assistant Vice President, appeared before me this day in person and acknowledged that she signed and delivered said instrument as such Assistant Vice President of Lender, as her own free and voluntary act and as the free and voluntary act of Lender, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10<sup>th</sup> day of December, 2013.

Jayne L. McGivney  
NOTARY PUBLIC

My Commission Expires:





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Lessee Acknowledgment:

STATE OF Illinois )  
 ) SS.  
COUNTY OF Cook )

I, Robert S. Spadoni, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Joel Johnson, President and CEO of HUMAN RESOURCES DEVELOPMENT INSTITUTE, INC., an Illinois not-for-profit corporation ("Lessee"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President and CEO of Lessee, appeared before me this day in person and acknowledged that (s)he signed and delivered said instrument as such President and CEO of Lessee, as his/her own free and voluntary act and as the free and voluntary act of Lessee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10<sup>th</sup> day of December, 2013.

Robert S. Spadoni  
\_\_\_\_\_

NOTARY PUBLIC

My Commission Expires:

09/29/14  
\_\_\_\_\_





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Lessee Acknowledgment:

STATE OF Illinois )  
 ) SS.  
COUNTY OF Cook )

I, Robert S. Spadoni, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that John S. Williams Chair of Finance Committee of HUMAN RESOURCES DEVELOPMENT INSTITUTE, INC., an Illinois not-for-profit corporation ("Lessee"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_ of Lessee, appeared before me this day in person and acknowledged that (s)he signed and delivered said instrument as such \_\_\_\_\_ of Lessee, as his/her own free and voluntary act and as the free and voluntary act of Lessee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10<sup>TH</sup> day of December, 2013.

Robert S. Spadoni  
NOTARY PUBLIC

My Commission Expires:

09/29/14



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Lessor Acknowledgment:

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK )

I, Robert S. Spadoni, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Joel Johnson, President of SOUTHWOOD CORPORATION, an Illinois not-for-profit corporation ("*Lessee*"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President of Lessor, appeared before me this day in person and acknowledged that (s)he signed and delivered said instrument as such President of Lessor, as his/her own free and voluntary act and as the free and voluntary act of Lessor, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10<sup>th</sup> day of December, 2013.

Robert S. Spadoni  
NOTARY PUBLIC

My Commission Expires:

09/29/14



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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 15, 16, 17, 18 AND 19 IN BLOCK 4 IN FOURTH ADDITION TO HINKAMP AND COMPANY'S WESTERN AVENUE SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 26, 1927 AS DOCUMENT NUMBER 9393488 IN COOK COUNTY, ILLINOIS

PIN: 20-31-117-003; 20-31-117-004; 20-31-117-005; and 20-31-117-025

Address: 8151-01 S. Western Avenue, Chicago, Illinois 60620