

UNOFFICIAL COPY

3/3



Doc# 1627416049 Fee \$48.00

Prepared by, Recorded at the Request of
and After Recording Return To:
Emilie Patterson
Symetra Life Insurance Company
Mortgage Loan Department
PO Box 84066
Seattle, WA 98124-8466

RHSP FEE:\$9.00RPRF FEE \$1.00
KAREN A. YARBROUGH
COOK COUNTY RECORDER OF DEEDS
DATE: 09/30/2016 12:02 PM PG: 1 OF 6

160373600015

3

SUBORDINATION AND ATTORNMEN AGREEMENT

This Subordination and Attornment Agreement ("Agreement") dated September 28, 2016, between SYMETRA LIFE INSURANCE COMPANY, an Iowa corporation, whose address for notices is PO Box 84066, Seattle, WA 98124-8466 (the "Lender"), KERKORP LLC, a California limited liability company whose address for notices is 1418 Scholarship, Irvine, CA 92612-5687 ("Landlord") and THE PERFECT KUP INC., a California corporation (also known as The Prefect Kup Inc., a California corporation) whose address for notices is 3505 Cadillac Ave, Suite E, Costa Mesa, CA 92626-1431 (the "Tenant") with respect to the real property located in Cook County, Illinois more particularly described in Exhibit A attached hereto and made a part hereof (the "Property").

RECITALS:

A. Lender has made, or is about to make, a loan to Landlord, evidenced by a Promissory Note and secured by a mortgage or deed of trust (the "Security Instrument," which term includes all renewals, modifications and replacements thereof, including without limitation those that increase the amount secured thereby) with respect to the Property (the Security Instrument and any other documents evidencing or securing the loan are jointly referred to herein as the "Loan Documents"); and

B. Tenant leases all or a portion of the Property (the "Premises") pursuant to an unrecorded lease between Landlord and Tenant dated July 28, 2016 (the "Lease") located at 4845 West 111th Street, Alsip, IL 60803-2865 and

C. The parties desire to subordinate the Lease to the lien of the Security Instrument and set forth their agreement as to their respective rights, obligations and priorities with respect to the Lease;

D. NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby represented and agreed as follows:

1. **Subordination of Lease.** Notwithstanding any provision in the Lease to the contrary, the Lease and the leasehold estate created thereby and all of Tenant's rights under the Lease (including without limitation, any right, option or opportunity of Tenant to purchase the Property) are and shall at all times remain subject, subordinate and inferior (i) to the Security Instrument and the lien thereof to the extent of all amounts secured by the Security Instrument and interest thereon, and (ii) to all rights of Lender under the Security Instrument. Tenant will not subordinate or cause the Lease to be subordinated to any interests other than those held by Lender (and its successors and assigns) without notice to and written consent of Lender.

2. **Tenant Acknowledgment of Assignment.** Tenant acknowledges that the Lease and the rent due under the Lease will be assigned to Lender pursuant to the Assignment of Leases as security for the loan secured by the Security Instrument. If Lender notifies Tenant of a default by Landlord under the Loan Documents and demands that Tenant pay rent and all other sums due under the Lease to Lender, Tenant agrees to honor such demand and pay rent due under the Lease as directed by Lender, and Landlord hereby directs Tenant to comply with such demand, and agrees that any such payment by Tenant to Lender pursuant to such a demand shall satisfy Tenant's payment obligations to Landlord under the Lease to the extent of the amount so paid. Tenant will not, without the prior written consent of Lender, pay to Landlord any rent under the Lease more than thirty (30) days in advance of its due date.

3. **Attornment.** In the event of foreclosure under the Security Instrument or a deed in lieu thereof, or any other exercise by Lender of rights and remedies as a result of which a Successor Landlord becomes the owner of the Premises (such a transfer being referred to herein as a "Transfer"), and in the event Lender does not exercise such rights as it may have under applicable law to extinguish and terminate the Lease effective upon the Transfer, then so long as Tenant complies with this Agreement and no

6

UNOFFICIAL COPY

default has occurred and is continuing under the Lease, the Lease shall continue in full force and effect as a direct lease between the succeeding owner of the Property (a "Successor Landlord") and Tenant, upon and subject to all of the terms, covenants and conditions of the Lease for the balance of the Lease term and any extensions or renewals, if exercised. Tenant shall have no right to terminate the Lease by reason of the Transfer so long as Tenant's peaceable and quiet use and possession of the Premises shall not be disturbed by reason thereof. In the event Lender elects to have the Lease continue in force upon a Transfer, then Tenant agrees to attorn to and accept any such Successor Landlord as landlord under the Lease, and to be bound by and perform all of the obligations imposed by the Lease, said attornment to be self-operative, without execution of any further instruments, upon a Transfer. Notwithstanding the foregoing, neither Lender nor any other Successor Landlord shall be (i) liable for any act or omission of a prior landlord, other than a non-monetary default of a continuing nature that continues past the date of the Transfer, and of which Lender is given written notice prior to the Transfer (a "Continuing Default") (ii) subject to any claims, offsets, counterclaims, or defenses which Tenant may have against any prior landlord (including Landlord), other than those arising from a Continuing Default, (iii) bound by any rent or additional rent which Tenant may have paid in advance to any prior landlord (including Landlord) for a period in excess of one month or by any security deposit, cleaning deposit or other prepaid charge which Tenant might have paid in advance to any prior landlord (including Landlord), unless such advance rent, deposit or charge has been delivered to Lender, (iv) bound by any amendment to the Lease which reduces the amount of rent or other sums due thereunder, changes the frequency of the payment of rent, or shortens the initial term or shortens or eliminates any renewal option, made without the prior written consent of Lender, or (v) bound by any purchase option or right of first refusal for the purchase of any portion of the Property granted under the Lease or otherwise held by Tenant, except as otherwise expressly provided herein.

4. No Recourse to Lender. Lender shall not, either by virtue of the Security Instrument or this Agreement, be or become (i) a mortgagee-in-possession or (ii) subject to any liability or obligation under the Lease or otherwise until Lender shall have acquired by foreclosure or otherwise the interest of Landlord in the Premises. Lender's liability or obligation under the Lease shall extend only to those liabilities or obligations accruing subsequent to the date that Lender has acquired the interest of Landlord in the Premises, including Continuing Defaults.

5. Notices. All notices and other communications hereunder shall be in writing and deemed to have been duly given, served or received (i) if mailed, on the third day after deposit in the United States Mail, registered or certified, postage prepaid, return receipt requested, or (ii) if delivered by reputable commercial overnight courier (like Federal Express or similar firms), freight prepaid, the next business day after delivery to such courier, in each case addressed to the party at its address set forth herein (or at such other address as shall hereafter be designated in writing by the applicable party to the sender).

6. Binding Agreement. This Agreement shall be binding upon the parties and their respective successors and assigns.

7. Miscellaneous. Tenant understands that as between Tenant and Lender the terms of this Agreement are binding on Tenant even if they grant rights to lender that Lender would not necessarily otherwise enjoy as a successor landlord under the Lease. Nothing in this Agreement shall be construed to derogate from or in any way impair or affect the lien of the Security Instrument. 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. The laws of the State where the Property is located shall govern the validity, construction and enforcement of this Agreement, without giving effect to the conflict of laws principles thereof.

8. Counterparts. This Agreement may be executed in separate counterparts all of which shall constitute a single instrument.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year stated above.


TENANT:

LANDLORD:

THE PERFECT KUP INC.,
a California corporation

KERKORP LLC,
a California limited liability company

By: 
Dorit Kerbel, President

By: 
Stephen Kerbel, Member

By: 
Dorit Kerbel, Member

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Emilie Patterson

This Instrument was prepared by:
Emilie Patterson
Symetra Life Insurance Company
Mortgage Loan Department
PO Box 84066
Seattle, WA 98124-8466

(All signatures must be acknowledged)

UNOFFICIAL COPY

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Orange

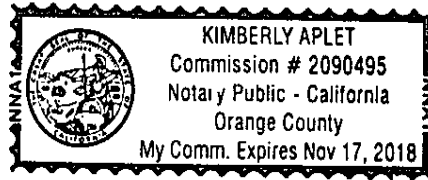
On September 22, 2016, before me, Kimberly Aplet, Notary Public, personally appeared **STEPHEN KERBEL**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kimberly Aplet
SIGNATURE OF NOTARY

(2015 Form-California)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Orange

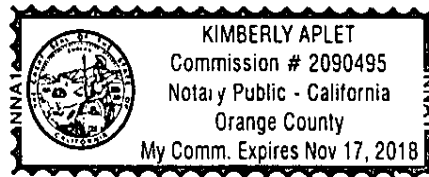
On September 22, 2016, before me, Kimberly Aplet, Notary Public, personally appeared **DORIT KERBEL**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kimberly Aplet
SIGNATURE OF NOTARY

(2015 Form-California)




UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year stated above.

LENDER:

SYMETRA LIFE INSURANCE COMPANY,
an Iowa corporation

By: 
Colin M. Elder, Senior Vice President

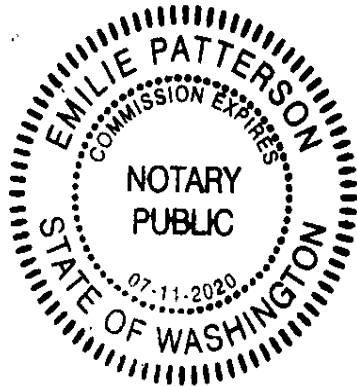
(Signature must be acknowledged)


STATE OF WASHINGTON

COUNTY OF KING

I certify that I know or have satisfactory evidence that **COLIN M. ELDER** is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Senior Vice President of Symetra Life Insurance Company, an Iowa corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 13th day of September, 2016.




Emilie Patterson, Notary

Notary public in and for the state of
Washington, residing in Bellevue, WA

My appointment expires July 11, 2020

UNOFFICIAL COPY

EXHIBIT A

(Legal Description of Property)

LOT 1 IN. O.D. FLANDERMEYER'S SUBDIVISION, BEING A SUBDIVISION OF PART OF THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 21, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THE NORTH 50 FEET TAKEN FOR 111TH STREET) IN THE VILLAGE OF ALSIP, ACCORDING TO THE PLAT OF SUBDIVISION OF O.D. FLANDERMEYER'S SUBDIVISION, RECORDED JANUARY 10, 1978 AS DOCUMENT NO. 24278857, IN COOK COUNTY, ILLINOIS.

Address: 4843, 4845, 4847, 4849 W 111th St, Alsip, IL 60803
Permanent Index No.: 24-21-200-059-0000

Property of Cook County Clerk's Office