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Karen A. Yarbrough
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DOCUMENT COVER SHEET

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

PREPARED BY AND
UPON RECORDATION RETURN TO:

Dain J. Johnson, Esq.
Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102

Box 400

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LEASE SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT

THIS LEASE SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT ("**Agreement**") is made effective as of October 3, 2016 between Panera, LLC, a Delaware limited liability company ("**Tenant**"); **WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY**, a Nebraska corporation ("**Lender**"), and Woodfield Restaurant Court, LLC, an Illinois limited liability company ("**Borrower**").

RECITALS:

A. Lender has agreed to make a loan (the "**Loan**") to Borrower, the repayment of which is to be secured by a mortgage, deed of trust, deed to secure debt, or other security instrument (the "**Security Instrument**") by Borrower to or for the benefit of Lender, pertaining to the real property commonly known as Woodfield Restaurant Court, located at or about 1140 Plaza Drive, in Schaumburg, Cook County, Illinois, and legally described on **EXHIBIT "A"** attached hereto and incorporated herein by this reference (the "**Property**"), which is to be or has been recorded in the official real estate records in the county and State of Illinois.

B. Tenant is the current lessee of all or a certain portion (the "**Leased Premises**") of the Property pursuant to the provisions of that certain Lease Agreement between Panera, LLC, a Delaware limited liability company and Woodfield Restaurant Court, LLC, an Illinois limited liability company dated October 1, 1994 (said instrument, as now or hereafter amended or modified is herein referred to as the "**Lease**").

C. Tenant has been informed that the receipt of this Agreement is a condition to the making of the Loan.

AGREEMENTS

1. **SUBORDINATION.** The rights of Tenant under the Lease are subject and subordinate to the rights of Lender under the Security Instrument and to any renewal, modification, consolidation, replacement, increase, or extension of the Security Instrument.

2. **NON-DISTURBANCE.** Neither Lender nor any trustee under the Security Instrument may disturb Tenant's possession of the Leased Premises or otherwise interfere with Tenant's rights under the Lease, unless Tenant is in default under the Lease beyond any cure period in the Lease.

3. **ATTORNMEN; LIABILITY OF LENDER.** If the Property is transferred by foreclosure, by similar judicial or non-judicial proceedings, or by sale in lieu of foreclosure (each a "**Foreclosure Event**"), neither Lender nor any trustee under the Security Instrument shall name Tenant in any foreclosure or similar proceeding, unless Lender or the trustee is required to do so under applicable rules of procedure or other law. In any Foreclosure Event, the Property shall be transferred subject to the Lease; upon request by Lender or other transferee, Tenant shall attorn to Lender or such transferee and promptly execute such instruments as may be appropriate to evidence such attornment; and effective as of the date of transfer, the Lease shall bind Lender or such transferee and Tenant to the same extent as though the transferee had been named lessor in the Lease. However, neither Lender nor such transferee shall be:

(a) liable for any act or omission of the transferor before the transfer, except acts or omissions which continue subsequent to the time Lender or such transferee acquires ownership of the Property, and only to the extent of such continuation;

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(b) subject to any claims, offsets or defenses which Tenant had against the transferor (but Tenant is not obligated to pay to the transferee any offsets taken before the Property was transferred), unless Tenant has given Lender notice and opportunity to cure any default pursuant to the provisions of **Section 6**, below;

(c) bound by any rent, additional rent or other charges paid by Tenant more than 30 days in advance of the due date under the Lease;

(d) bound by any Lease amendment after the effective date of this Agreement (or the earlier date of any estoppel certificate given by Tenant to Lender) terminating the Lease prior to expiration or termination as expressly provided in the Lease; changing the term of the Lease other than as expressly provided in the Lease (including existing options, if any); reducing the rent or charges payable by Tenant under the Lease or modify the allocation of the cost of insurance, taxes or other expenses of the operation of the Property; or otherwise materially reducing the benefits of the Lease to the holder of the lessor's interest in the Lease, which is made without Lender's written consent; or

(e) responsible for any security deposit delivered under the Lease and not received by Lender.

The liability of Lender, a trustee under the Security Instrument, or any other transferee in a Foreclosure Event or the liability of a subsequent owner designated as landlord under the Lease shall exist only for so long as Lender or such trustee or other transferee is the owner of the Leased Premises.

4. **INSURANCE PROCEEDS AND CONDEMNATION AWARDS.** If Lender or any trustee under the Security Instrument may collect the proceeds of Borrower's property insurance or the award in eminent domain proceedings under the Security Instrument, unless Tenant is in default under the Lease, beyond any cure period in the Lease, Lender and the trustee shall allow Borrower and Tenant to use those proceeds or that award to reconstruct the Property or for payment to Tenant, as may be required in the Lease. Lender may require that Borrower and Tenant comply with reasonable disbursement procedures reasonable under the circumstances to ensure that the proceeds are applied to complete the reconstruction of the Property or paid to Tenant, as required under the Lease.

5. **RENT DIRECTIVE.** Borrower has assigned to Lender the right to receive the rents payable under the Lease. If Lender gives notice to Tenant that Lender has elected to have Tenant pay Lender directly the rental and other charges payable by Tenant under the Lease, Tenant shall, until Lender gives tenant notice that it cancels this election, pay the rent and other charges under the Lease to Lender or at Lender's direction. Borrower hereby irrevocably directs and authorizes Tenant to comply with any direction so received by Tenant from Lender. Borrower, by its execution of this Agreement, agrees to hold Tenant harmless for the application of any payments so made.

6. **NOTICE AND OPPORTUNITY TO CURE BORROWER DEFAULTS.** So long as the Obligations secured under the Security Instrument have not been satisfied, Tenant shall notify Lender of any default by Borrower of those obligations under the Lease which are of a nature as to give Tenant a right to terminate the Lease, reduce rent or other charges, or to credit or offset any amounts against future rents or other charges. Lender shall thereafter have the right, but not the obligation, to effect the cure of such default within the later of the expiration of Borrower's cure period, if any, under the Lease; or thirty (30) days after the giving of notice by Tenant to Lender; provided, that if such default cannot reasonably be cured by Lender within this thirty (30) day period, the period for cure by Lender shall be extended so long as Lender has expeditiously commenced to cure and is pursuing with due diligence to cure said defaults.

7. **TRADE FIXTURES.** The lien of the Security Instrument shall not encumber Tenant's trade fixtures, furniture or equipment at any time placed or installed in the Leased Premises.

provided Tenant has received a fully executed copy of this Agreement

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8. **DEEMED CONSENT BY LENDER.** Lender shall be deemed to have given its consent to any amendment of the Lease to which Lender would not otherwise be bound, if Lender fails to respond, either by reasonably requesting additional information or by disapproving the request, within thirty (30) days after Lender's receipt of such request from Borrower, provided such request shall make specific reference to the provisions of this Section and shall expressly state, in solid capital letters on the first page thereof: "YOU ARE HEREBY REMINDED THAT YOUR FAILURE TO PROVIDE NOTIFICATION OF APPROVAL OR DISAPPROVAL OR REASONABLY REQUEST ADDITIONAL INFORMATION NOT LATER THAN THIRTY (30) DAYS AFTER YOUR RECEIPT OF THIS REQUEST SHALL BE DEEMED, PURSUANT TO SECTION 8 OF THE SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT, TO CONSTITUTE YOUR APPROVAL THEREOF."

9. **RIGHT OF FIRST REFUSAL.** Any right of first offer or right of first refusal in favor of Tenant under the Lease, if any, shall not apply to Lender through a foreclosure, deed-in-lieu of foreclosure or any other enforcement action under the Security Instrument; provided, however, such right of first refusal shall apply to subsequent purchasers of the Leased Premises.

10. **OPTION TO PURCHASE.** Any option to purchase the Property in favor of Tenant under the Lease, if any, is by this Agreement expressly made subject and subordinate to the Security Instrument. Unless Tenant assumes the Loan pursuant to the provisions of the Security Instrument and the other Loan Documents (as defined in the Security Instrument), all proceeds from the sale of the Property to Tenant under the terms of the Lease shall be paid first to Lender until all Obligations of Borrower under the Loan Documents have been satisfied. Such Obligations shall include Prepayment Consideration, if any, specified under the Loan Documents, due to Lender upon the prepayment of the principal balance of the Loan. Lender shall not be required to release the Security Instrument as a lien upon the Property unless and until all Obligations of Borrower under the Loan Documents have been paid in full.

11. **NON-MERGER.** In the event that the interests of Borrower and Tenant shall, at any time, vest in any one person or entity, it is agreed that insofar as Lender is concerned, ownership of the fee title to the Property and the Tenant's leasehold estate created by the Lease shall not merge, but shall remain separate and distinct notwithstanding the union of such estates in Borrower, Tenant, or any third party by reason of purchase or otherwise.

12. **NOTICES.** All notices under this Agreement shall be properly given (a) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient, (ii) one (1) Business Day after deposit for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after deposit in any U.S. Postal Service mail depository and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to Tenant, Lender, or Borrower, as the case may be, at the addresses below or addressed as such party may from time to time designate by written notice to the other parties.

To Tenant:

Panera, LLC
3630 S. Geyer Road
St. Louis, MO 63127
ATTN: Legal Department

Lease Accounting

w/copy to:

Panera, LLC
Three Charles River Place
63 Kendrick St
Needham MA 02494
Attn: Development Counsel

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To Lender:

WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY
Woodmen Tower
1700 Farnam Street
Omaha, NE 68102
Attn: Investment Division

Either party by written notice to the other may designate additional or different addresses for subsequent notices or communications. For purposes of this Subsection, "**Business Day**" shall mean a day other than Saturday or Sunday and on which commercial banks are not authorized or required by law to close in the state where the Property is located.

13. **AUTHORITY.** The persons executing this Agreement on behalf of Tenant, Lender and Borrower each represent that he or she is authorized to execute such instruments on behalf of Tenant, Lender and Borrower, respectively.

14. **ATTORNEYS FEES.** If any action is commenced to enforce any provision of this Agreement or in connection with its meaning, the prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, including reasonable attorney's fees and expenses.

15. **MISCELLANEOUS.** This Agreement contains the entire agreement between the parties concerning the matters addressed herein. The parties may amend this Agreement only in writing. This Agreement benefits and binds the successors and assigns of each party and shall run with the land. This Agreement shall be governed in accordance with the laws of the state in which the Property is located and applicable laws of the United States of America. This Agreement may be executed in counterparts, and each counterpart shall be effective as an original when a counterpart has been signed by all parties.

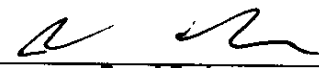
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WITNESS WHEREOF, this Agreement has been executed by the parties effective as of the day and year first above written.

TENANT

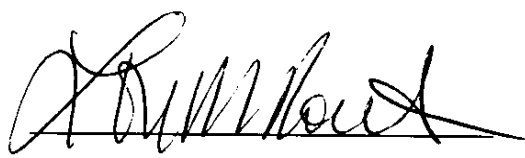
Panera, LLC
a Delaware limited liability company

By: 
Name: Barry J. Barth
Title: Director, Development Counsel

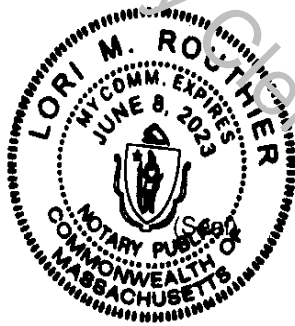
STATE OF MA)
COUNTY OF Norfolk)ss

On Sept. 29, 2016 before me, Lori Routhier, a notary public in and for said state, personally appeared Barry J. Barth, Architect ^{Development Counsel of Panera, LLC}, 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(ies), 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 MA that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature of Notary



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LENDER:

**WOODMEN OF THE WORLD LIFE
INSURANCE SOCIETY**, a Nebraska corporation

By: Shawn Bengtson
Name: Shawn Bengtson
Title: Vice President, Investment

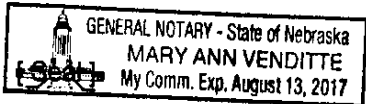
By: Dean R. Holdsworth
Name: Dean R. Holdsworth
Title: Director - Mortgage & Real Estate
Investment

STATE OF NEBRASKA

COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me this 28 day of September, 2016, by Shawn Bengtson and Dean R. Holdsworth, as the Vice President, Investment and Director - Mortgage & Real Estate Investment, respectively, of WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY, a Nebraska corporation, on behalf of the corporation.

Witness my hand and official seal.



Mary Ann Venditte
Notary Public

My commission expires: August 13 2017

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BORROWER:

Woodfield Restaurant Court, LLC,
a(n) Illinois limited liability company

By: *George Good*
Name: George Good
Title: Member

STATE OF Illinois)
COUNTY OF Cook)ss

On 9/29/16 before me, Tami A. Deacon, a notary public in and for said state, personally appeared George Good, 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(ies), 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 Illinois that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Tami A. Deacon

Signature of Notary

(Seal)



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EXHIBIT "A"

(DESCRIPTION OF PROPERTY)

LOT 3 (EXCEPT THAT PART CONDEMNED IN CASE 90L50507 AND CONVEYED TO THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS FOR AND ON BEHALF OF THE PEOPLE OF THE STATE OF ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE SOUTH 01 DEGREES 18 MINUTES 10 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 3 A DISTANCE OF 23.20 FEET; THENCE NORTH 45 DEGREES 26 MINUTES 46 SECONDS WEST 27.41 FEET; THENCE SOUTH 87 DEGREES 48 MINUTES 11 SECONDS WEST 347.32 FEET; THENCE SOUTH 44 DEGREES 11 MINUTES 01 SECONDS WEST 29.78 FEET; THENCE SOUTH 32 DEGREES 04 MINUTES 05 SECONDS WEST 43.87 FEET; THENCE SOUTH 00 DEGREES 25 MINUTES 56 SECONDS WEST 205.00 FEET; THENCE NORTH 89 DEGREES 34 MINUTES 04 SECONDS WEST 19.67 FEET TO THE WEST LINE OF SAID LOT 3; THENCE NORTH 00 DEGREES 26 MINUTES 25 SECONDS EAST ALONG SAID WEST LINE 326.05 FEET; THENCE NORTH 43 DEGREES 54 MINUTES 54 SECONDS EAST ALONG THE NORTHWESTERLY LINE OF SAID LOT 3 A DISTANCE OF 36.28 FEET TO THE NORTH LINE OF SAID LOT; THENCE NORTH 87 DEGREES 23 MINUTES 24 SECONDS EAST, ALONG SAID NORTH LINE 405.81 FEET TO THE POINT OF BEGINNING) IN ANDERSON'S WOODFIELD PARK, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS APPEARING ON THE PLAT OF SUBDIVISION RECORDED OCTOBER 7, 1974 AS DOCUMENT NUMBER 22869159 IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS.

PIN: 07-13-102-002

Address: 1140-1180 Plaza Dr

Schaumburg, IL 60173

EXHIBIT "A"