

Sherman & Howard L.L.C.  
Attn: Bruse A. Kolbezen  
90 South Cascade Avenue, Ste 1500  
Colorado Springs, CO 80903-2440

Ent: 352532 - Pg 1 of 8  
Date: 1/21/2011 1:13:00 PM  
Fee: \$28.00  
Filed By: eCASH  
Jerry M. Houghton, Recorder  
Tooele County Corporation  
For: Metro National Title

**SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT**

**THIS AGREEMENT** is entered into as of the date set forth below by and between the Lender and Tenant defined below.

The following capitalized terms are definitions for the purpose of this agreement:

Lender: **PROTECTIVE LIFE INSURANCE COMPANY**, its successors and/or assigns.

Tenant: Associated Food Stores, Inc., a Utah corporation

Landlord: CCA-Tooele Towne Center, LLC, successor to Amsource Z Value, LLC

Lease: Build and Lease Agreement dated November 12, 1999, as amended by (a) an Amendment to Build and Lease Agreement dated February 8, 2001, (b) an undated Amendment to Lease, Memorandum of Lease and Corrected Memorandum of Lease signed on or about May 3, 2001, and (c) a Third Amendment to Build and Lease dated "December \_\_, 2010" (as amended, the "Lease") demising the premises described therein ("Leased Premises") and located on the Property

Property: the real property described in Exhibit A attached hereto and made a part hereof, together with all buildings and improvements situated thereon

Indenture: the Deed of Trust, Assignment of Rents and Security Agreement (or similar instrument) which encumbers or will encumber the Property to secure a mortgage loan made by Lender to Landlord

**WITNESSETH:**

**WHEREAS**, Lender is now or will become the owner and holder of the Indenture; and

**WHEREAS**, Tenant is the holder of the lessee's interest in the Lease covering the Leased Premises; and

**WHEREAS**, Tenant and Lender desire to confirm their understanding with respect to the Lease and the Indenture.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, Lender and Tenant hereby agree and covenant as follows:

1. **Subordination**. Subject to the terms of this Agreement, the Lease and the rights of Tenant thereunder are now and at all times hereafter shall be subject and subordinate to the Indenture and to all

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renewals, modifications or extensions thereof, but such renewals, modifications and extensions shall nevertheless be subject and entitled to the benefits of the terms of this Agreement.

2. Non-disturbance. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed; (a) Tenant's possession of the Leased Premises and Tenant's rights and privileges under the Lease, or any renewals, modifications, or extensions thereof which may be effected in accordance with any option granted in the Lease, shall not be diminished or interfered with by Lender; (b) Tenant's occupancy of the Leased Premises shall not be disturbed by Lender during the term of the Lease or any such renewals, modifications, or extensions thereof; and (c) Lender will not join Tenant as a party defendant for the purpose of terminating or otherwise affecting Tenant's interest and estate under the Lease in any action or proceeding brought by Lender for the purpose of enforcing any of its rights in the event of any default under the Indenture; provided however, Lender may join Tenant as a party in any such action or proceeding IF such joinder is necessary under any statute or law for the purpose of effecting the remedies available to the Lender under the Indenture, BUT ONLY for such purpose and NOT for the purpose of terminating the Lease.

3. Landlord Defaults/Cure. Notwithstanding anything in the Lease to the contrary, Tenant shall notify Lender in writing of the occurrence of any default by Landlord and shall permit Lender a period of thirty (30) days from the date of such notice (the "Cure Period") in which to cure such default prior to proceeding to exercise any of the rights or remedies of Tenant under the Lease, including: (a) termination of the Lease, (b) abatement of rental payments due thereunder, or (c) performance of Landlord's covenants or obligations which Tenant asserts to be in default; provided, however, that the Cure Period granted to Lender herein: (i) shall be extended by any period of time during which Lender is diligently pursuing the cure of a default which cannot reasonably be expected to be cured within the initial thirty (30) day Cure Period, and (ii) shall not be deemed to commence until after any period of time during which Lender is pursuing acquisition of title to the Leased Premises through foreclosure or otherwise, such period to include, without limitation, any period of time (A) during which Lender's acquisition of title to the Leased Premises is stayed by any proceeding in bankruptcy, any injunction or other judicial process, and (B) after acquisition of title by Lender during which Landlord or any other party is contesting the validity of the acquisition or Lender's title to the Leased Premises, provided that (1) in no event shall Tenant be required to forbear from executing its remedies for a period in excess of sixty (60) days and (2) during any period of delay for Lender to cure a Landlord default, Tenant's rights and interests under the Lease shall not be materially adversely affected.

Notwithstanding the foregoing, Tenant agrees that so long as the Indenture (including any extensions or modifications thereof) encumbers the Leased Premises, Tenant shall have no right to terminate the Lease or withhold or abate any rentals due or to become due thereunder by reason of any of the provisions of the Lease as such provisions apply to property not included within the limits of the real estate encumbered by the Indenture; provided, however, that nothing herein contained shall be construed as a waiver of Tenant's rights in personam nor remedies by way of injunctive relief against Landlord, and provided further, if Lender should succeed to the ownership of the Leased Premises by virtue of foreclosure or deed in lieu thereof or otherwise, then in such event the provisions of the Lease shall apply to Lender as owner/landlord only with respect to the land which was formerly encumbered by the Indenture.

So long as the Indenture (including all extensions, modifications and renewals thereof) encumbers the Property, Tenant agrees that any right of first refusal to purchase contained in the Lease and all rights of Tenant thereunder (a) are now and at all times hereafter shall be subject and subordinate to the Indenture, and (b) that foreclosure of the Indenture by Lender or a taking of a deed in lieu of foreclosure by Lender (collectively "foreclosure") will not give rise to any rights of Tenant under any

such right of first refusal and Tenant will not attempt to assert any such rights in the event of foreclosure or assert any such rights against a purchaser at foreclosure; provided, however, foreclosure will not terminate any such right of first refusal which right shall continue to be applicable after foreclosure or a purchase at foreclosure, as applicable.

4. Attornment. If Lender shall become owner of the Leased Premises by reason of foreclosure or other proceedings brought by it, or by any other manner, or if Lender succeeds to the interests of the Landlord under the Lease, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option granted in the Lease, with the same force and effect as if Lender were the Landlord under the Lease, and Tenant does hereby attorn to Lender as its Landlord, such attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto; PROVIDED, HOWEVER, that Tenant shall be under no obligation to pay rent to Lender until Tenant receives written notice from Lender that it has become such owner or has succeeded to the interest of the Landlord under the Lease. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth therein; it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length herein.

5. Limitation of Liability. If Lender shall become owner of the Leased Premises or if Lender shall succeed to Landlord's interest in the Lease, then during the period of Lender's ownership of such interest, but not thereafter, Lender shall be bound to Tenant under all the terms, covenants and conditions of the Lease, and during the period of Lender's ownership of Landlord's interests in the Lease, Tenant shall have the same remedies against Lender for the breach of an agreement contained in the Lease that Tenant would have had against the Landlord if Lender had not become such owner or had not succeeded to Landlord's interest therein; PROVIDED, HOWEVER, that notwithstanding any provision in the Lease to the contrary, Lender shall not be:

- (a) liable for any act or omission of any prior landlord arising under the Lease (including the Landlord) or subject to any offsets or defenses which Tenant may have against any prior landlord arising under the Lease (including the Landlord) except acts, omissions, offsets and defenses of which Lender has previously been given notice in accordance with the terms of this Agreement; or
- (b) bound by any rents or additional rent which Tenant might have paid for more than the current month to any prior landlord (including the Landlord); or
- (c) bound by any amendment or modification of the Lease made without its consent.

6. Definitions. (a) The terms "holder of a mortgage" and "Lender" or any similar term herein or in the Lease shall be deemed to include Lender and any of its successors or assigns, including anyone who shall have succeeded to ownership of the Leased Premises or to Landlord's interests by, through or under foreclosure of the Indenture, or deed in lieu of such foreclosure or otherwise.

(b) The term "Landlord" shall be deemed to include Landlord, the holder of the lessor's interest in the Lease and the fee owner of the Leased Premises and the successors and assigns of any of the foregoing.

7. Rent Assignment. The Landlord has assigned or will assign to Lender all of Landlord's right, title and interest in the Lease by an Assignment of Rents and Leases ("Rent Assignment"). If in the

future there is a default by the Landlord in the performance and observance of the terms of the Indenture, the Lender may at its option under the Rent Assignment require that all rents and other payments due under the Lease be paid directly to Lender. Upon notification to that effect by the Lender, Tenant agrees to pay any payments due under the terms of the Lease to the Lender, which payment shall constitute payments required to be made to Landlord under the Lease. The Rent Assignment does not diminish any obligations of the Landlord under the Lease or impose any such obligations on the Lender.

8. Modifications; Successors and Assigns. This Agreement may NOT be modified except by a written agreement signed by the parties hereto or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

9. Insurance Proceeds. Notwithstanding anything in this Agreement to the contrary, provided no event of default by Tenant under the Lease has occurred and is continuing beyond any period of grace or cure granted therein, any term or provision in the Lease regarding the application of any insurance proceeds to repair, restore or rebuild any of the Leased Premises shall take precedence over any term or provision in the Indenture.

10. Notice to Lender. Any notice required to be given by Tenant to Lender under this Agreement shall be sufficient if sent by overnight courier or by certified or registered mail (return receipt requested) to Lender at the following address:

Protective Life Insurance Company  
P. O. Box 2606  
Birmingham, AL 35202  
Attention: Investment Department.  
3-3 ML

[Remainder of page intentionally left blank]

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates set forth in the acknowledgements below.

**LENDER:**

**Protective Life Insurance Company,**  
a Tennessee corporation

BY: Charles M. Prior

ITS: Senior Vice President

**STATE OF ALABAMA**

**COUNTY OF JEFFERSON**

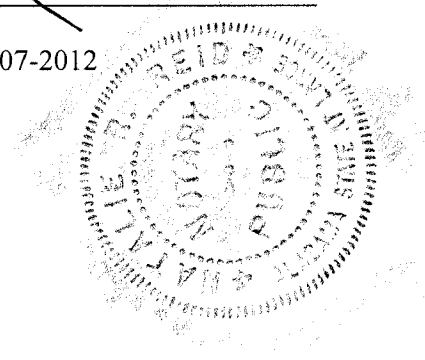
The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of January, 2011, by Charles M. Prior, Senior Vice President of Protective Life Insurance Company, a Tennessee corporation.

Witness my hand and official seal.

Natalie B. Reid

Notary Public

My Commission Expires: 09-07-2012




TENANT

ASSOCIATED FOOD STORES, INC.,  
a Utah corporation

BY: *Rene A. Ruben*  
ITS: *President*

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

 Notary Public  
**LEZLIE SANDERS**  
Commission # 572039  
My Commission Expires October 14, 2011  
State of Utah

*Leslie Sanders*  
Notary Public  
My commission expires: 10-14-11

**JOINDER**

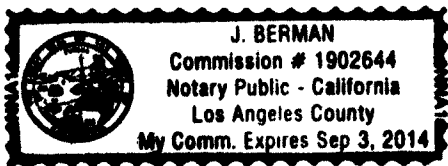
Landlord joins in the execution of the Agreement for the purpose of acknowledging and consenting to the terms and conditions thereof, including without limitation those pertaining to the payment of rents by Tenant to Lender.

**LANDLORD:**

CCA-TOOELE TOWNE CENTER, LLC,  
a Delaware limited liability company, as the successor  
to Amsource Z Value, LLC

BY: Steven Usdan  
Steven Usdan  
Managing Member of  
CCA Acquisition Company, LLC,  
a California limited liability company  
the Managing Member

STATE OF CALIFORNIA )  
  : ss.  
COUNTY OF LOS ANGELES )



J. BERMAN J. Berman  
Notary Public  
My commission expires: SEPT. 3, 2014

EXHIBIT A

(Legal Description)

Parcel 1:

All of Lot 1, TOOELE TOWN CENTER NO. 3, according to the official plat thereof, filed in the office of the Tooele County Recorder in Plat Book 15 at page 38.

Parcel 3:

All of Lot 4, TOOELE TOWN CENTER, according to the official plat thereof, filed in the office of the Tooele County Recorder in Plat Book 13 at page 73.

Parcel 5:

All of Lot 7, TOOELE TOWN CENTER, according to the official plat thereof, filed in the office of the Tooele County Recorder in Plat Book 13 at page 73.

Parcel 6:

All of Lot 1, TOOELE TOWN CENTER NO. 4, according to the official plat thereof, filed in the office of the Tooele County Recorder in Plat Book 16 at page 33.

Parcel 7:

All of Lot 4, TOOELE TOWN CENTER NO. 3, according to the official plat thereof, filed in the office of the Tooele County Recorder in Plat Book 15 at page 38.

Parcel 8:

Together with the common easements as shown in that Grant of Easements, Declaration of Restrictions and Common Facilities Maintenance Agreement recorded December 16, 1999 as Entry No. 141401 in Book 602 at page 330 and as amended by that certain First Amendment of Grant of Easements, Declaration of Restrictions and Common Facilities Maintenance Agreement recorded April 9, 2003, Entry No. 199553 in Book 838 at page 871 and Second Amendment to Grant of Easements, Declaration of Restrictions and Common Facilities Maintenance Agreement recorded May 17, 2004 as Entry No. 223299 in Book 945 at page 261 of official records of the Tooele County Recorder.

15-038-0-0001  
13-073-0-0004  
13-073-0-0007  
16-033-0-0001  
15-038-0-0004