

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Barack Ferrazzano Kirschbaum
& Nagelberg LLP
200 West Madison Street, Suite 3900
Chicago, Illinois 60606
Attention: Jay Byron Leibovitz, Esq.

ENT 176276:2020 PG 1 of 10
Jeffery Smith
Utah County Recorder
2020 Nov 06 12:12 PM FEE 74.00 BY 55
RECORDED FOR First American Title Insurance Company - N
ELECTRONICALLY RECORDED

NCS103 7842

Loan No. 219620201

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

THIS SUBORDINATION, NON-DISTURBANCE, AND ATTORNMEN AGREEMENT (this "Agreement") is made as of October 12, 2020, by and among PACIFIC LIFE INSURANCE COMPANY, a Nebraska corporation (together with its successors and assigns, "Lender"), SEPHORA USA, Inc., a Michigan corporation ("Tenant"), and University Place SPE L.L.C., a Utah limited liability company ("Landlord").

RECITALS

A. Landlord is the owner of those certain premises commonly known as 575 East University Parkway, Orem, UT 84097, more particularly described in Exhibit A attached hereto (the "Real Estate");

B. Landlord has obtained from Lender a loan (the "Loan") pursuant to that certain Term Loan Agreement dated December 18, 2019, by Landlord and Lender ("Loan Agreement"), which Loan is evidenced by a Secured Promissory Note dated December 18, 2019 (the "Note"), made by Landlord in favor of Lender;

C. Pursuant to the Loan Agreement, the obligations of Landlord under the Note are to be secured by, among other things, a Deed of Trust, Financing Statement and Security Agreement (with Assignment of Rents and Fixture Filing) dated December 18, 2019 (the "Security Instrument") and recorded in the Utah County Recorder on December 18, 2020 as Entry No. 134187:2019 Page 1-31;

D. The Security Instrument constitutes a first lien upon, among other things, the Real Estate and the current and future improvements (the "Improvements") situated thereon (collectively, the "Property"); and

E. Under the terms of that certain Lease dated 09/29/2020 (the "Lease"), Landlord leased to Tenant a portion of the Real Estate and the Improvements, as more particularly described in the Lease (the "Premises").

F. Pursuant to the Security Instrument and the other documents evidencing and/or securing the Loan (as each such document may be amended, restated, or otherwise modified from time to time, collectively, the "Loan Documents") (i) the Lease is assigned to Lender and (ii) Lender grants a license back to Landlord permitting Landlord to collect all rents, income and other sums payable under the Lease until the revocation by Lender of such license, at which time all rents, income and other sums payable under the Lease are to be paid to Lender.

G. Lender has required the execution of this Agreement by Landlord and Tenant as a condition to Lender consenting to the Lease.

H. Tenant acknowledges that, as its consideration for entering into this Agreement, Tenant will benefit by entering into an agreement with Lender concerning Tenant's relationship with any purchaser or transferee of the Property (including Lender) in the event of foreclosure of the Security Instrument or a transfer of the Property by deed in lieu of foreclosure (any such purchaser or transferee and each of their respective successors or assigns is hereinafter referred to as "Successor Landlord").

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NOW THEREFORE, to confirm the legal effect of the Security Instrument and the Lease and, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENTS

- I. Tenant and Landlord agree for the benefit of Lender that:
 - (a) Tenant shall not pay, and Landlord shall not accept, any rent or additional rent more than one month in advance of the date due under the Lease;
 - (b) Except where made solely for purposes of documenting Tenant's exercise of rights specifically provided in the Lease, Tenant and Landlord will not enter into any agreement for the cancellation of the Lease or the surrender of the Premises without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed;
 - (c) Tenant and Landlord will not enter into any agreement amending or modifying the Lease, except for amendments or modifications specifically contemplated in the Lease for confirming the lease commencement date, the rent commencement date, the term, the square footage leased, the renewal or extension of the Lease, or the leasing of additional space at the Property; provided, however, nothing in this Section 1(c) shall alter Tenant's rights, if any, to assign its interest under the Lease or sublet its interest under the Lease pursuant to and in accordance with the Lease's express provisions;
 - (d) Tenant will not terminate the Lease because of a default thereunder by Landlord unless Tenant shall have first given Lender written notice (which notice to Lender may be a copy of the notice given to Landlord under the Lease) and a reasonable opportunity to cure such default which shall not exceed thirty (30) days after the giving of such notice (the "Cure Period"); provided, however, if such default is of such a nature that it cannot be reasonably cured within the Cure Period and Lender commences cure within the Cure Period and diligently prosecutes such cure to completion, then Lender shall have such additional time as reasonably necessary to cure such default, not to exceed one hundred twenty (120) days after the giving of such notice;
 - (e) Tenant, upon receipt of notice from Lender that it has exercised its rights under the Security Instrument and revoked the license granted to Landlord to collect all rents, income and other sums payable under the Lease (and such notice from Lender, a "Rent Payment Notice"), shall pay to Lender all rent and other payments then or thereafter due under the Lease, and any such payments to Lender shall be credited against the rent or other obligations due under the Lease as if made to Landlord;
 - (f) Tenant will not conduct any dry cleaning operations on the Premises using chlorinated solvents nor will Tenant use any chlorinated solvents in the operation of their business on the Premises; and
 - (g) Tenant shall pay any and all termination fees due and payable under the Lease directly to Lender.

In furtherance of Section 1(e) above, the parties acknowledge and agree that Tenant shall be entitled to rely on any Rent Payment Notice, Tenant shall be under no duty to controvert or challenge any Rent Payment Notice, and Tenant's compliance with a Rent Payment Notice shall not be deemed to violate the Lease. Landlord hereby releases Tenant from, and shall indemnify and hold Tenant harmless from and against, any and all loss, claim, damage, liability, cost or expense (including payment of reasonable attorneys' fees and disbursements) arising from any claim based upon Tenant's compliance with any Rent Payment Notice.

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2. The Lease is hereby subordinated in all respects to the Security Instrument and to all renewals, modifications and extensions thereof, subject to the terms and conditions set forth in this Agreement, but Tenant waives, to the fullest extent it may lawfully do so, the provisions of any statute or rule of law now or hereafter in effect that may give or purport to give it any right or election to terminate or otherwise adversely affect the Lease or the obligations of Tenant thereunder by reason of any foreclosure proceeding. Lender hereby acknowledges and agrees that in no event shall the Security Instrument cover or be construed as subjecting in any manner to the lien thereof, any trade fixtures, signs or other personal property or equipment at any time furnished or installed by or for Tenant or its subtenants or licensees at the Property.

3. Landlord, Tenant and Lender agree that, unless Lender shall otherwise consent in writing, the fee title to, or any leasehold interest in, the Property and the leasehold estate created by the Lease shall not merge but shall remain separate and distinct, notwithstanding the union of said estates either in Landlord or Tenant or any third party by purchase, assignment or otherwise.

4. If the interests of Landlord in the Property are acquired by a Successor Landlord:

(a) If Tenant shall not then be in default in the payment of rent or other sums due under the Lease beyond all applicable grace, notice and cure periods or be otherwise in material default under the Lease beyond all applicable grace, notice and cure periods, the Lease shall not terminate or be terminated and the rights of Tenant thereunder shall continue in full force and effect except as provided in this Agreement;

(b) Tenant agrees to attorn to Successor Landlord as its lessor; Tenant shall be bound under all of the terms, covenants and conditions of the Lease for the balance of the term thereof, including any renewal options which are exercised in accordance with the terms of the Lease;

(c) The interests so acquired shall not merge with any other interests of Successor Landlord in the Property if such merger would result in the termination of the Lease;

(d) If, notwithstanding any other provisions of this Agreement, the acquisition by Successor Landlord of the interests of Landlord in the Property results, in whole or part, in the termination of the Lease, there shall be deemed to have been created a lease between Successor Landlord and Tenant on the same terms and conditions as the Lease, except as modified by this Agreement, for the remainder of the term of the Lease with renewal options, if any; and

(e) Successor Landlord shall be bound to Tenant under all of the terms, covenants and conditions of the Lease, and Tenant shall, from and after Successor Landlord's acquisition of the interests of Landlord in the Property, have the same remedies against Successor Landlord for the breach of the Lease that Tenant would have had under the Lease against Landlord if the Successor Landlord had not succeeded to the interests of Landlord; provided, however, that Successor Landlord shall not be:

(i) Liable for any act or omission of any landlord (including Landlord) or any other party occurring prior to the date of Successor Landlord's acquisition of the interests of Landlord in the Premises, except for any repair or maintenance obligations of a continuing nature as of the date of such acquisition;

(ii) Liable for any obligation to (x) construct any improvements in, or make any alterations to, the Premises, or (y) to reimburse Tenant by way of allowance or otherwise for any such improvements or alterations constructed or made, or to be constructed or made, by or on behalf of Tenant in the Premises, provided, however, this clause (ii) (and clause (iii) below) shall in no way modify, limit or impair any obligation of

Successor Landlord to perform repair and maintenance obligations as required under clause (i) above, provided, however, notwithstanding anything to contrary herein, if Successor Landlord acquires title to the Property and subsequently fails to pay any installments of tenant improvement allowance by the applicable due dates required by the Lease, and if such failure continues for thirty (30) days following Successor Landlord's receipt of written notice from Tenant that such payment was not received by Tenant on or before its due date, then as Tenant's sole remedy Tenant may, but shall not be obligated to, deduct such unpaid amount from subsequent monthly installments of any rent which may become due to Successor Landlord under the Lease, provided further that the amount deducted together with any and all other amounts deducted shall not in the aggregate exceed twenty-five percent (25%) of each respective monthly payment of Minimum Rent;

- (iii) Subject to any offsets or defenses which Tenant might have against any landlord (including Landlord) prior to the date of Successor Landlord's acquisition of the interests of Landlord in the Premises, except for the offset rights or defenses expressly set forth in the Lease, if any, provided that (a) in each instance Tenant is entitled to exercise the applicable offset right or defense pursuant to the terms of the Lease, and (b) in each instance Successor Landlord has received written notice from Tenant of the default giving rise to the offset right or defense and the opportunity to cure such default within the applicable cure period stated in Section 1(d) of this Agreement and prior to Successor Landlord succeeding to the interest of Landlord in the Premises;
- (iv) Liable for the return of any security deposit under the Lease, except to the extent that such security deposit shall have been actually deposited with Successor Landlord;
- (v) Bound to Tenant subsequent to the date upon which Successor Landlord transfers its interest in the Premises to any third party, provided that such third party has assumed obligations of the landlord under the Lease in writing;
- (vi) Liable to Tenant under any indemnification provisions set forth in the Lease, except that Successor Landlord shall be liable under such indemnification provisions for its acts or negligent omissions that first occur while it is Successor Landlord; or
- (vii) Liable for any damages in excess of Successor Landlord's equity interest in the Property, including, without limitation the rents, sales proceeds, and insurance and condemnation proceeds therefrom.

The provisions of this Section 4 shall be effective and self-operative immediately upon Successor Landlord succeeding to the interests of Landlord without the execution of any other instrument.

5. Tenant represents to Lender that Tenant, all persons and entities owning (directly or indirectly) an ownership interest in Tenant and all guarantors of all or any portion of the Lease: (a) are not a person or entity with whom Mortgagee is restricted from doing business with under regulations of the Office of Foreign Assets Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated Nationals and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action; (b) are not a person or entity with whom Mortgagee is restricted from doing business under the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders thereunder; and (c) are not knowingly engaged in any dealings or transaction or be otherwise associated with such persons or entities described in (a) and (b) above (such

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persons individually and collectively referred to herein as "Prohibited Persons"). Tenant covenants to Lender that neither Tenant, nor any person or entity owning (directly or indirectly) an ownership interest in Tenant, nor any guarantor shall become a Prohibited Person, or knowingly engage in any dealing or transactions or otherwise be associated with any Prohibited Person. Notwithstanding the foregoing to the contrary, the foregoing representations and covenants shall not apply with respect to any person or entity holding an ownership interest in or through an entity whose securities are: (i) listed on a national or regional or foreign securities exchange; (ii) quoted on an automated quotation system; or (iii) at least 50%-held by institutional investors, qualified institutional buyers or regulated investment companies, or a wholly-owned subsidiary of such an entity.

6. Any notice, approval, statement, demand or other communication required or permitted to be given, rendered or made by one party hereto to another party hereto pursuant to this Agreement (a "Notice") shall be in writing and shall not be effective for any purpose unless the same shall be served personally with acknowledgment of receipt, or sent by national air courier service providing for a receipt, or by United States registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below. Each Notice shall be deemed to have been given and received on the date such Notice is actually received as evidenced by a written receipt therefor from the personal delivery service, United States Postal Service, or national courier service, as applicable, and in the event of failure to deliver by reason of changed address of which no Notice was given or refusal to accept delivery, as of the date of such failure or refusal as evidenced by a written receipt therefor from the personal delivery service, United States Postal Service, or national courier service, as applicable. The addresses of the parties for Notices are as follows:

Lender: Pacific Life Insurance Company
 700 Newport Center Drive
 Newport Beach, California 92660
 Attention: Vice President Portfolio Management Real Estate Division
 Loan No. 215210201

Tenant: Sephora USA, Inc.
 First Market Tower
 525 Market Street, 32nd Floor
 San Francisco, California 94015-2708
 Attention: General Counsel

With a copy in like manner to:
 First Market Tower
 525 Market Street, 32nd Floor
 San Francisco, California 94015-2708
 Attention: Senior Vice President of Real Estate

With a copy in like manner to:
 Barack Ferrazzano Kirschbaum & Nagelberg LLP
 200 West Madison Street, Suite 3900
 Chicago, Illinois 60606
 Attention: Jay Byron Leibovitz, Esq.

Landlord: University Place
 c/o Woodbury Corporation
 2733 East Parleys Way, Suite 300
 Salt Lake City, Utah 84109
 Attn: Lease Administration

Any party hereto may change the name and address of the designee(s) to whom its Notice shall be sent by giving notice of such change to the other parties hereto in the manner above provided, at least ten (10) business days prior to the effective date of such notice. Legal counsel of any party is authorized to give Notice under this Agreement on behalf of its respective client.

7. This Agreement may not be modified orally or in any other manner except by an agreement in writing signed by the parties hereto or their respective successors in interest. In the event of any conflict between the terms of this Agreement and the terms of the Lease, as between Tenant and Landlord, the terms of the Lease shall prevail, but as between Tenant and Lender or any Successor Landlord, the terms of this Agreement shall prevail. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, successors and assigns, and shall remain in full force and effect notwithstanding any renewal, extension, increase, or refinancing of the indebtedness secured by the Security Instrument, without further confirmation. Upon recorded satisfaction of the Security Instrument, this Agreement shall become null and void and be of no further effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates of acknowledgment below, to be effective as of the day and year first above written.

(Remainder of page intentionally left blank; signatures follow)



IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year first above written.

TENANT:

SEPHORA USA, INC.,
a Michigan corporation

By: *Jeffrey Gault*
Name: JEFFREY GAULT
Its: SVP, STATE DEVELOPMENT

Address: [See Section 7 above.]

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 SAN FRANCISCO

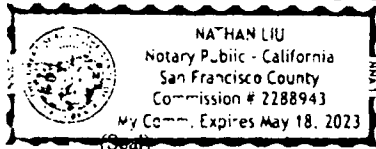
Nathan Liu
Notary Public

On Oct 7th 2020 before me, _____, notary public, personally appeared Jeffrey Gault, 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 California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature *Nathan Liu*



A.R.S. § 41-313(C) DISCLOSURES

This notary acknowledgment is attached to that Subordination, Non-Disturbance and Attornment Agreement dated _____, 2015, consisting of ___ pages, and was executed by the following individual: _____

Handwritten initials/signature

LANDLORD:

UNIVERSITY PLACE SPE L.L.C., a Utah limited liability company

By: WOODBURY MANAGEMENT COMPANY, L.C., a Utah limited liability company, Its Manager

By: WOODBURY CORPORATION, a Utah corporation, Its Manager

By: [Signature]
O. Randall Woodbury, President

By: [Signature]
W. Richards Woodbury, Chairman

Address: [See Section 7 above.]

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 Utah

COUNTY OF Salt Lake

On 12th before me, October, notary public, personally appeared O. Randall Woodbury & W. Richards Woodbury 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 California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature [Signature]



A.R.S. § 41-313(C) DISCLOSURES

This notary acknowledgment is attached to that Subordination, Non-Disturbance and Attornment Agreement dated _____, 2019, consisting of ___ pages, and was executed by the following individual: _____

LENDER:

PACIFIC LIFE INSURANCE COMPANY,
a Nebraska corporation

By: *L. Lisa Fields*
Name: L. Lisa Fields
Title: Assistant Vice President

Address: [See Section 0 above.]

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.

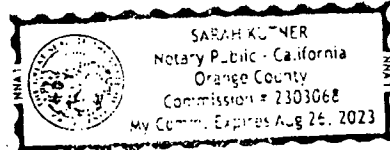
STATE OF California

COUNTY OF Orange

On August 20, 2020 before me, Sarah Kurner, notary public, personally appeared L. Lisa Fields, 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 California that the foregoing paragraph is true and correct.

Witness my hand and official seal.



Signature *Sarah Kurner*

(Seal)

A.R.S. § 41-313(C) DISCLOSURES

This notary acknowledgment is attached to that Subordination, Non-Disturbance and Attornment Agreement dated _____, 2019, consisting of _____ pages, and was executed by the following individual: _____.

Handwritten initials/signature

EXHIBIT A

Description Of Real Estate

Parcel 1:

Lots 1, 2, 3, 3D, 3E, 4, 5B, 6A, 7, 8C, 8D, 9, 10, 12, 20, 21, 22, 24, and 25, University Place Subdivision Plat 'B', according to the Official Plat thereof, recorded December 12, 2019, as Entry No. 131493:2019, Map Filing No. 16877, in the Office of the Utah County Recorder, State of Utah.

Parcel 2:

Non-exclusive easements for ingress and egress as set forth in that certain Cross Access Easement Agreement dated December ~~14~~¹⁶, 2019 between University Place SPE L.L.C., a Utah limited liability company and University Mall Shopping Center, L.C., a Utah limited liability company, said instrument recorded December ~~14~~¹⁶, 2019 as Entry No. ~~134144:2019~~^{134146:2019}, over the following described property, to wit:

Lots 23, 26, 30 and 33, University Place Subdivision Plat 'B', according to the Official Plat thereof, recorded December 12, 2019, as Entry No. 131493:2019, Map Filing No. 16877, in the Office of the Utah County Recorder, State of Utah.

Parcel 3:

Non-exclusive easement for parking as set forth in that certain Parking Easement Agreement dated December ~~14~~¹⁶, 2019 between University Place SPE L.L.C., a Utah limited liability company and University Mall Shopping Center, L.C., a Utah limited liability company, said instrument recorded December ~~14~~¹⁶, 2019 as Entry No. ~~134144:2019~~^{134146:2019}, over the following described property, to wit:

Lots 30 and 33, University Place Subdivision Plat 'B', according to the Official Plat thereof, recorded December 12, 2019, as Entry No. 131493:2019, Map Filing No. 16877, in the Office of the Utah County Recorder, State of Utah.

Parcel 4:

Non-exclusive easement as set forth in that certain Cross Easement Agreement dated May 30, 2008 and the terms and provisions thereof, between University Mall Shopping Center L.C., a Utah limited liability company and Utah Transit Authority, a public transit district (UTA) and KC PROPCO, LLC, a Delaware limited liability company, recorded March 5, 2009 as Entry No. 23588:2009.

Parcel 5:

Lots 202 and 204, University Mall Plat A - Lot 201-205 Subdivision, according to the official plat thereof, recorded November 29, 2017 as Entry No. 117896:2017 and Map Filing No. 15792, in the office of the Utah County Recorder.