

CC JITTER BQ C.E. BQ  
VERIFY 62  
PROOF 2017 12 30  
FEES \$ 52.00  
CHECK# 3012 630  
CHG \_\_\_\_\_ CASH \_\_\_\_\_  
REFUND \_\_\_\_\_ CREDIT \_\_\_\_\_  
SHORT \_\_\_\_\_ NCR \_\_\_\_\_

FILED SARPY COUNTY NEBRASKA  
INSTRUMENT NUMBER

2018-28444

12/04/2018 12:52:10 PM

*Lloyd J. Dowding*

REGISTER OF DEEDS



**THIS PAGE ADDED  
FOR RECORDING  
INFORMATION.**

**DOCUMENT STARTS ON  
NEXT PAGE.**

**LLOYD J. DOWDING**

SARPY COUNTY REGISTER OF DEEDS  
1210 GOLDEN GATE DRIVE  
PAPILLION, NE 68046-2842  
402-593-5773

A

**SUBORDINATION, NONDISTURBANCE  
AND ATTORNMENT AGREEMENT**

THIS AGREEMENT (the "Agreement") is made and entered into this 18<sup>th</sup> day of October, 2018, by and among **ULTA SALON, COSMETICS & FRAGRANCE, INC.**, a Delaware corporation ("Tenant"), whose address is 1000 Remington Blvd., Suite 120, Bolingbrook, Illinois 60440; KeyBank National Association, ("Lender"), on behalf of certain other lenders, its successors, participants, and assigns, as administrative agent, whose address is 4910 Tiedeman Rd., 3<sup>rd</sup> Floor, Mail Code: OH-01-51-031, Brooklyn, OH 44144, and PPG Shadow Real Estate, LLC, a Delaware limited liability company, ("Landlord") having an address at 1790 Bonanza Drive, Suite 201, Park City, UT 84060.

**RECITALS:**

A. Lender has made or will make a mortgage loan ("Loan") to Landlord secured by a Deed of Trust, Security Agreement and Assignment of Rents and Leases (the "Mortgage") on the real property (the "Premises") which includes the real estate in Papillion, Sarpy County, Nebraska, legally described on Exhibit "A" attached hereto; and

B. Tenant is the tenant and Landlord, as successor in interest to Papillion Development, LLC, is designated as "Landlord", under and pursuant to the provisions of a certain Lease dated May 2, 2007 (the "Lease"); and

C. Lender requires that Tenant subordinate the Lease and its interest in the Premises in all respects to the lien of the Mortgage and Tenant attorn to Lender and acknowledge that the Lease is in full force and effect; and

D. In return, Lender is agreeable to not disturbing Tenant's possession of the premises covered by the Lease (the "Demised Premises"), so long as Tenant is not in default under the Lease beyond the expiration of any applicable notice and cure period.

NOW, THEREFORE, the parties hereby agree as follows:

1. Subordination. The rights of Tenant in, to, and under the Lease, and the Demised Premises are hereby subjected and subordinated, and shall remain, in all respects and for all purposes, subject and subordinate to the lien of the Mortgage and to any and all renewals, modifications, and extensions thereof, and any and all other instruments held by Lender as security for the Loan, subject to Tenant's right of quiet enjoyment and non-disturbance as set forth in the Lease and in Section 2 hereof, so long as Tenant is not in default under the Lease beyond the expiration of any applicable notice and cure period. The foregoing notwithstanding, in no event shall any of Tenant's trade fixtures, inventory, equipment, furniture and furnishings, accounts, books or records or other assets owned by Tenant and that the Lease provides may be removed from the Premises by Tenant upon expiration of the Lease term, be or become subject or subordinate to the lien in favor of Lender.

877909-1 10961.0088000  
AFTER RECORDING, RETURN TO:  
DAVID K. CONRAD  
BRICKER & ECKLER LLP  
100 SOUTH 3RD STREET  
COLUMBUS, OHIO 43215

(E)

Papillion, NE  
Ulta Store #292

B

2. Tenant Not to be Disturbed. So long as Tenant is not in default (beyond any period given Tenant by the terms of the Lease to cure such default) in the payment of rent or additional 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 Demised Premises, or any extension or renewal rights therefor in the Lease shall not be diminished or interfered with by Lender or any person claiming under or through such Lender, and Tenant's occupancy of the Demised Premises shall not be disturbed by Lender or any person claiming under or through such Lender during the term of the Lease or any such extensions or renewals thereof, and (b) neither Lender nor any person claiming under or through such Lender will join Tenant as a party defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Lease.

3. Tenant to Attorn to Lender. If Lender shall become the owner of the Demised Premises, or the Demised Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Mortgage, or the Demised Premises shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct lease between the then owner of the Demised Premises and Tenant, and Tenant hereby attorns to Lender or any other such owner as its lessor, said attornment to be effective and self-operative without the extension of any further instruments; provided, however, that Lender or such other owner shall not be:

(a) liable for any act or omission of any prior lessor (including Landlord as lessor), except that to the extent such act or omission is continuing or to the extent that Lender had notice of such act or omission; Tenant shall retain all rights and remedies available to Tenant at law or pursuant to the Lease to the extent such act or omission is continuing or to the extent that the Lender had notice of such act or omission; or

(b) subject to any offsets or defenses (other than accord and satisfaction) which Tenant might have against any such prior lessor, except to the extent such offsets or defenses arise out of acts or omissions by Lender or such other owner and to the extent that Lender had notice of such acts or omissions, or for offsets arising under the Lease with respect to costs and expenses (but not damages) incurred by Tenant prior to notice from Tenant to Lender and Lender's opportunity to cure as provided in this Agreement; or

(c) bound by any prepayment of rent or additional rent which Tenant might have paid more than one (1) month in advance, except as otherwise expressly required by the terms of the Lease; or

(d) bound by any amendment or modification of the Lease made without the written consent of Lender, which: (i) reduces the term of the Lease, (ii) reduces the square footage of the Demised Premises by more than ten percent (10%), (iii) materially decreases the obligations of the Tenant, (iv) materially increases the obligations of the Landlord, (v) materially diminishes the rights or remedies of the Landlord, (vi) materially diminishes the financial terms of the Lease (which shall include any reduction of the rental rate), (vii) materially and adversely affects the value of the Demised Premises, or (viii) adversely impacts the lien of the Mortgage; or

C

(e) bound to return any security deposit unless Lender has actually received that security deposit.

Tenant shall be under no obligation to pay rent to Lender or such other owner until Tenant receives written notice from Lender or any such other owner that it has succeeded to Landlord's interest under the Lease.

4. Notice of Default. Each of the Lender and Tenant shall give to the other, by certified or registered mail, a copy of any notice of default served upon Landlord under the Mortgage or the Landlord under the Lease, respectively, at the address set forth above, and the other shall have the same right, but shall have no obligation, to cure any such default on behalf of the Landlord as is provided in the Mortgage and as the Landlord in the Lease, respectively.

5. Assignment of Lease. Tenant acknowledges that the interest of Landlord in the Lease is held by Landlord and Landlord's interest has been assigned to Lender as security under the Mortgage, and that Lender assumes no duty, liability, or obligation under the Lease or any extension or renewal of the Lease, either by virtue of said assignment or by any subsequent receipt or collection of rents under the assignment unless Lender shall specifically undertake such liability in writing or unless Lender or its designee or nominee becomes the fee owner of the Demised Premises.

6. Rental Payment. Until such time as Tenant is otherwise notified in writing by Lender, it shall make all rental payments under the Lease to Landlord as provided therein.

7. Successors and Assigns. This Agreement and each and every covenant, agreement, and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their heirs, administrators, representatives, successors, and assigns.

8. Governing Law. This Agreement shall be deemed to be a contract entered into pursuant to the laws of the state where the Premises are located and shall in all respects be governed, construed, applied, and enforced in accordance with the laws of such state.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

**LENDER:**

KeyBank National Association,  
a national banking association

By: Peter J. Schmitt  
Name: Peter J. Schmitt  
Title: Senior V.P.

STATE OF Ohio )  
 ) ss.  
COUNTY OF Franklin )

On this 18<sup>th</sup> day of October, 2018, before me, the undersigned officer, personally appeared Peter J. Schmitt, who acknowledged himself to be the Senior V.P. of KeyBank National Association, a national banking association, and that he, as such Senior V.P. being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Teresa A. Ehmman  
Notary Public

My Commission Expires:

[NOTARY SEAL]



TERESA A. EHMANN  
Notary Public, State of Ohio  
My Commission Expires November 6, 2022

E

**TENANT:**

Ulta Salon, Cosmetics & Fragrance, Inc.,  
a Delaware corporation

Witnesses:

*Allen [Signature]*  
*Uchi Caltahan*

By: *[Signature]*  
David G. Krueger  
Senior Vice President,  
Growth and Development

STATE OF ILLINOIS                    )  
                                                  ) ss.  
COUNTY OF WILL                    )

On this 16th day of August, 2018, before me, the undersigned officer, personally appeared David G. Krueger who acknowledged himself to be the Senior Vice President Growth and Development of **Ulta Salon, Cosmetics & Fragrance, Inc.**, a Delaware corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

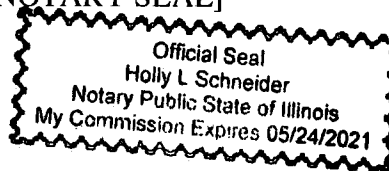
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Holly L. Schneider*  
Notary Public

My Commission Expires:

\_\_\_\_\_

[NOTARY SEAL]



F

The undersigned hereby joins in the execution of this Agreement in order to evidence its acceptance of, and agreement to be bound by, Section 4 of the Agreement.

**BORROWER:**  
**PPG SHADOW REAL ESTATE LLC,**  
a Delaware limited liability company

By: Sara Brennan  
Name: Sara J. Brennan  
Title: Chief operating officer

*Notary Acknowledgement for Borrower:*

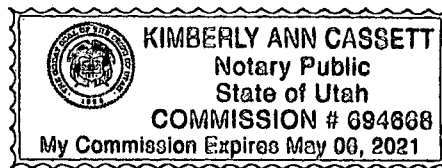
STATE OF Utah )  
COUNTY OF Summit ) ss.:

On this, the 22 day of August, 2018, before me, the undersigned Notary Public, personally appeared Sara J. Brennan known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and who acknowledged to me that he/she is an officer of PPG Shadow Real Estate LLC, a Delaware limited liability company in the capacity stated and that he/she executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

K. A. Cassett  
Notary Public

*[PPG Shadow Real Estate LLC SNDA Signature Page]*



**EXHIBIT A****LEGAL DESCRIPTION OF THE PROPERTY**

---

The land referred to herein is described as follows:

Lots Four (4), Seven (7), Eight (8) and Nine (9), and Outlots A and B, Shadow Lake Towne Center, an Addition to the City of Papillion, in Sarpy County, Nebraska;

Lots One (1), Two (2) and Outlots A, B and C, Shadow Lake Towne Center Replat 1, an Administrative Subdivision, in Sarpy County, Nebraska;

Lot Two (2), Shadow Lake Towne Center Replat 2, an Administrative Subdivision in Sarpy County, Nebraska;

Lot (1), Shadow Lake Towne Center Replat 3, an Administrative Subdivision in Sarpy County, Nebraska; and

Lots One (1) and Two (2), Shadow Lake Town Center Replat 5, an Addition to the City of Papillion, in Sarpy County, Nebraska.