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2012007748

### SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT is made as of December 29, 2011 by and among FIRST NATIONAL BANK OF OMAHA, a national banking association ("Lender"), E.A. PEDERSEN COMPANY, a Nebraska corporation ("Tenant") and DPD, LTD., L.L.C., an Iowa limited liability company ("Landlord").

A. Lender is or will be the beneficiary of one or more deeds of trust and assignments of rents filed or to be filed in the real property records of Douglas County, Nebraska (collectively, the "Mortgage"); each encumbering the Property, and the improved real property more particularly described on Exhibit A attached hereto and made a part hereof for all purposes (the "Mortgaged Property"), each securing the payment of one or more promissory notes payable to the order of Lender;

B. Tenant is the tenant under the lease agreement (the "Lease") by and between Landlord and Tenant, demising certain premises (the "Demised Premises") therein described, being all or a portion of the Mortgaged Property;

C. A memorandum or short form of the Lease is to be recorded in the real property records of Douglas County, Nebraska prior to the recording of this Agreement.

D. Tenant, Landlord and Lender desire to confirm their understanding with respect to the Lease and the Mortgage; and

E. In consideration of the mutual covenants and agreements herein contained, Lender, Landlord and Tenant hereby agree and covenant as follows:

1. Subordination. The Lease now is, and shall at all times and for all purposes continue to be, subject and subordinate, in each and every respect, to the Mortgage, with the provisions of the Mortgage controlling in all respects over the provisions of the Lease, it being understood and agreed that the foregoing subordination shall apply to any and all increases, renewals, modifications, extensions, substitutions, replacements and/or consolidations of the Mortgage, provided that any and all such increases, renewals, modifications, extensions, substitutions, replacements and/or consolidations shall nevertheless be subject to the terms of this Agreement.

After recording, return to:  
Matthew J. Speiker  
Koley Jessen P.C., L.L.O.  
1125 South 103<sup>rd</sup> Street, Suite 800  
Omaha, NE 68124

✓ 116231 ✓

2. Non-Disturbance. So long as (a) Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the other terms, covenants or conditions of the Lease on Tenant's part to be performed, (b) the Lease is in full force and effect, and (c) Tenant attorns to Lender or a purchaser of the Mortgaged Property as provided in Section 3, then (d) Tenant's possession, occupancy, use and quiet enjoyment of the Demised Premises under the Lease, or any extensions or renewals thereof or acquisition of additional space which may be effected in accordance with any option therefor in the Lease, shall not be terminated, disturbed, diminished or interfered with by Lender in the exercise of any of its rights under the Mortgage, and (e) Lender will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating Tenant's interest and estate under the Lease because of any default under the Mortgage.

3. Attornment. If Lender shall become the owner of the Mortgaged Property or the Mortgaged Property shall be sold by reason of non judicial or judicial foreclosure or other proceedings brought to enforce the Mortgage or the Mortgaged Property shall be conveyed by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct Lease between Tenant and Lender (or other purchaser of the Mortgaged Property, who shall succeed to the rights and duties of Landlord). In such event, Tenant shall attorn to Lender or such purchaser, as the case may be, upon any such occurrence and shall recognize Lender or such purchaser, as the case may be, as the landlord under the Lease. Such attornment shall be effective and self-operative without the execution of any further instrument on the part of any of the parties hereto. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of Lender or of any holder(s) of any of the indebtedness or other obligations secured by the Mortgage or any such purchaser, any instrument or certificate which, in the sole reasonable judgment of the requesting party, is necessary or appropriate, in connection with any such foreclosure or deed in lieu of foreclosure or otherwise, to evidence such attornment, which instrument or certificate shall be in form and content reasonably acceptable to Tenant. Tenant hereby waives the provisions of any statute or rule of law, now or hereafter in effect, which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect the Lease and the obligations of Tenant thereunder as a result of any such foreclosure or deed in lieu of foreclosure.

4. Obligations and Remedies. If Lender shall become the owner of the Mortgaged Property or the Mortgaged Property shall be sold by reason of non judicial or judicial foreclosure or other proceedings brought to enforce the Mortgage or the Mortgaged Property shall be conveyed by deed in lieu of foreclosure, Lender or other purchaser of the Mortgaged Property, as the case may be, shall have the same remedies by entry, action or otherwise in the event of any default by Tenant (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the other terms, covenants and conditions of the Lease on Tenant's part to be performed that Landlord had or would have had if Lender or such purchaser had not succeeded to the interest of Landlord. Upon attornment by Tenant as provided herein, Lender or such purchaser shall be bound to Tenant under all the terms, covenants and conditions of the Lease and Tenant shall have the same remedies against Lender or such purchaser for the breach of an agreement contained in the Lease that Tenant might have had under the Lease against Landlord if Lender or such purchaser had not succeeded to the interest of Landlord; provided, however, that Lender or such purchaser shall not be liable or bound to Tenant:

- a. for any act or omission of any prior landlord (including Landlord); or

b. for any offsets or defenses which Tenant might be entitled to assert against Landlord; or

c. for or by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord) unless such rent or additional rent is actually paid over to Lender or such purchaser by the prior landlord; or

d. by any amendment or modification of the Lease made without Lender's consent or of which Lender or such purchaser does not have actual knowledge; or

e. for any security deposit, rental deposit or similar deposit given by Tenant to a prior landlord (including Landlord) unless such deposit is actually paid over to Lender or such purchaser by the prior landlord; or

f. for any tenant allowance, if any, as set forth in the Lease; or

g. for the payment of any leasing commissions or other expenses for which any prior landlord (including Landlord) incurred the obligation to pay; or

h. by any provision of the Lease restricting use of other properties owned by Lender, as landlord; or

i. by any notice given by Tenant to a prior landlord (including Landlord) unless a copy thereof was also then given to Lender.

The person or entity to whom Tenant attorns shall be liable to Tenant under the Lease only for matters arising during such person's or entity's period of ownership.

5. No Abridgment. Nothing herein contained is intended, nor shall it be construed, to abridge or adversely affect any right or remedy of Landlord under the Lease in the event of any default by Tenant (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the other terms, covenants or conditions of the Lease on Tenant's part to be performed.

6. Representations by Tenant. Tenant represents and warrants to Lender that Tenant has validly executed the Lease; the Lease is valid, binding and enforceable and is in full force and effect in accordance with its terms; the Lease has not been amended except as stated herein; no rent under the Lease has been paid more than thirty (30) days in advance of its due date; to the best of its knowledge, there are no defaults existing under the Lease; and Tenant, as of this date, to the best of its knowledge, has no charge, lien, counterclaim or claim of offset under the Lease, or otherwise, against the rents or other charges due or to become due under the Lease.

7. Tenant Agreements. Tenant agrees that: (i) Tenant's interest in and obligations under the Lease shall not be altered or modified without the prior written consent of Lender, nor shall Landlord and Tenant enter into a consensual termination of the Lease without the prior written consent of Lender and so such action shall have any force or effect as to Lender; (ii) Tenant shall not pay any rent or additional rent under the Lease more than one month in advance; (iii) Tenant shall have no right to appear in any foreclosure action under the Security Instrument; and (iv) Tenant shall deliver to Bank, from time to time and within thirty (30) days

from the date of request, a written statement in form and substance mutually agreed to by the parties, certifying to certain matters relating to the Lease.

8. Insurance. Tenant shall maintain the insurance as provided in the Lease and agrees that Lender shall be named as loss payee with a standard non-contributory mortgagee clause in favor of Lender on all such property insurance policies and an additional named insured, limited to Tenant's negligence, on such liability policies. Such policies shall not be cancelable without the giving of thirty (30) days prior written notice to Lender nor shall any act or omission by Landlord or Tenant invalidate the obligation of the insurer to Lender. A certificate of each and a copy of the declarations page relating to such policies of insurance (with premium and other confidential information of Tenant unrelated to insurance coverage redacted) shall be delivered by Tenant to Lender upon the request of Lender. All recoveries under any property policy of insurance shall be applied first to the payment of indebtedness payable by Landlord to Lender.

9. Rent Payment. If Lender shall become the owner of the Mortgaged Property or the Mortgaged Property shall be sold by reason of non judicial or judicial foreclosure or other proceedings brought to enforce the Mortgage or the Mortgaged Property shall be conveyed by deed in lieu of foreclosure, Tenant agrees to pay all rents directly to Lender or other purchaser of the Mortgaged Property, as the case may be, in accordance with the Lease immediately upon notice of Lender or such purchaser, as the case may be, succeeding to Landlord's interest under the Lease. Tenant further agrees to pay all rents directly to Lender immediately upon notice that Lender is exercising its rights to such rents under the Mortgage or any other loan documents (including but not limited to any Assignment of Rents) following a default (beyond any period given to Landlord to cure such default) by Landlord or other applicable party. Tenant shall be under no obligation to ascertain whether a default (beyond any period given to Landlord to cure such default) by Landlord has occurred under the Mortgage or any other loan documents. Landlord waives any right, claim or demand it may now or hereafter have against Tenant by reason of such direct payment to Lender and agrees that such direct payment to Lender shall discharge all obligations of Tenant to make such payment to Landlord.

10. Landlord Defaults. Tenant agrees to give Lender a copy of any default notice sent by Tenant under the Lease to Landlord. Tenant agrees with Lender that effective as of the date of this Agreement: Tenant shall not take any steps to terminate the Lease for any default by Landlord or any succeeding owner of the Mortgaged Property until after giving Lender written notice of such default, stating the nature of the default and giving Lender the same time period to cure as provided to Landlord in the Lease; and notice to Landlord under the Lease (oral or written) shall not constitute notice to Lender.

11. Liability of Lender. If Lender shall become the owner of the Mortgaged Property or the Mortgaged Property shall be sold by reason of foreclosure or other proceedings brought to enforce the Mortgage or the Mortgaged Property shall be conveyed by deed in lieu of foreclosure, Tenant agrees that, notwithstanding anything to the contrary contained in the Lease, after such foreclosure sale or conveyance by deed in lieu of foreclosure, Lender shall have no personal liability to Tenant under the Lease and Tenant shall look solely to the estate and interest of Landlord in the Mortgaged Property, to the net proceeds of sale thereof or the rentals received therefrom, for the satisfaction of Tenant's remedies for the collection of a judgment or other judicial process requiring the payment of money by Landlord in the event of any default or breach by the Landlord with respect to any of the terms, covenants, and conditions of the Lease to be observed or performed by the Landlord and any other obligation of the Landlord created by or under the Lease, and no other property or assets of Lender shall be

subject to levy, execution or other enforcement procedures for the satisfaction of Tenant's remedies. Further, in the event of any transfer by Lender of Landlord's interest in the Lease, Lender (and in the case of any subsequent transfers or conveyances, the then assignor), including each of its partners, officers, beneficiaries, co-tenants, shareholders or principals (as the case may be) shall be automatically freed and released, from and after the date of such transfer or conveyance, of all liability for the performance of any covenants and agreements which accrue subsequent to the date of such transfer of Landlord's interest.

12. Notice. Any notice or communication required or permitted hereunder shall be given in writing, sent by personal delivery, or expedited delivery service with proof of delivery, or United States mail, postage prepaid, registered or certified mail, or telegram or telex (to the extent provided pursuant to these notice provisions), addressed as follows:

To Lender:

First National Bank of Omaha  
11404 West Dodge Road, Stop 4250  
Omaha, NE 68154  
Attn: Mark McMillan

To Tenant:

E.A. Pedersen Company  
c/o Eaton Corporation  
1111 Superior Avenue  
Cleveland, OH 44114  
Attn: Real Estate Department

To Landlord:

DPD, Ltd., L.L.C.  
1200 9<sup>th</sup> Avenue  
Sibley, IA 51249  
Attn: William Zimmerman

or to such other address or to the attention of such other person as hereafter shall be designated in writing by the applicable party sent in accordance herewith. Any such notice or communication shall be deemed to have been given and received either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of telegram or telex, upon receipt.

13. Notice of Mortgage. To the extent that the Lease shall entitle Tenant to notice of any deed of trust or security agreement, this Agreement shall constitute such notice to Tenant with respect to the Mortgage and to any and all other deeds of trust and security agreements which may hereafter be subject to the terms of this Agreement.

14. Modification. 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.

15. Successor Lender. The term "Lender" as used throughout this Agreement includes any successor or assign of Lender, any affiliate of Lender acquiring the Mortgaged Property at foreclosure or by deed-in-lieu of foreclosure, and any holder(s) of any interest in the indebtedness secured by the Mortgage.

16. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns, and any purchaser or purchasers at foreclosure of the Mortgaged Property, and their respective successors and assigns.

17. Section Headings. The section headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several sections hereof.

18. Gender and Number. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural and words in the plural number shall be held and construed to include the singular, unless the context otherwise requires.

19. Applicable Law. This Agreement and the rights and duties of the parties hereunder shall be governed by all purposes by the law of the state where the Mortgaged Property is located and the law of the United States applicable to transactions within such state.

20. Counterparts. This Agreement may be executed in multiple counterparts and by the different parties hereto in separate counterparts, each of which shall for all purposes be deemed to be an original and all of which together shall constitute but one and the same instrument, with the same effect as if all parties to this Agreement had signed the same signature page.

**[The Remainder of This Page Intentionally Left Blank and Signature Page Follows]**

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

LENDER:

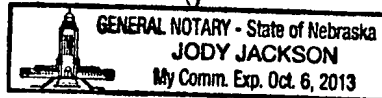
FIRST NATIONAL BANK OF OMAHA, a national banking association

By: Mark McMillan  
Its: Vice President

STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

This instrument was acknowledged before me on the 10<sup>th</sup> day of January, 2012, by Mark McMillan, Vice President of First National Bank a National Bank, known to me to be the person who executed this agreement in the capacity and for the purposes therein stated.

Jody Jackson  
Notary Public

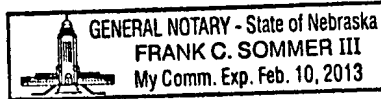


TENANT:

E.A. PEDERSEN COMPANY, a Nebraska corporation

By: Todd A Zabel  
Its: Treasurer

STATE OF Nebraska )  
  ) SS.  
COUNTY OF Douglas )



This instrument was acknowledged before me on the 29<sup>th</sup> day of December, 2011, by Todd A Zabel, Treasurer of E.A. Pedersen Co., a NE Corporation known to me to be the person who executed this agreement in the capacity and for the purposes therein stated.

Frank C. Sommer III  
Notary Public



LANDLORD:

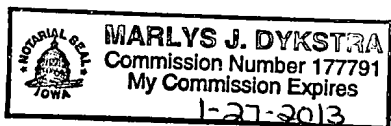
DPD, LTD., L.L.C., an Iowa limited liability company

By: William G. Zimmermann  
Its: MANAGING MEMBER

STATE OF Iowa )  
 ) ss.  
COUNTY OF Osceola )

This instrument was acknowledged before me on the 24<sup>th</sup> day of December, 2011, by William G. Zimmermann, Managing Member of DPD LTD, a LLC, known to me to be the person who executed this agreement in the capacity and for the purposes therein stated.

Marlys J. Dykstra  
Notary Public



## EXHIBIT A

### PROPERTY DESCRIPTION

Lots One (1) and Two (2) and the North One Hundred (100) feet of Lot Three (3), Block 263, lying East of the Chicago, Burlington and Quincy Railroad Company right of way, together with Lots Eleven (11), Twelve (12), Thirteen (13), and Fourteen (14), Block 262, and the West Thirty (30) feet of Lots One (1), Two (2), Three (3), and Four (4), Block 262, together with the South Twenty-five (25) feet of Lot Four (4), Block 262, all in the Original City of South Omaha, Douglas County, Nebraska, together with vacated Palmer Street and vacated alley within afore described legal.