



ARMSTRONG TEASDALE LLP

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ILLINOIS

KANSAS

MISSOURI

NEVADA

SHANGHAI

WASHINGTON, DC

ATTORNEYS AT LAW

October 7, 2008

Karen S. Copeland  
Director of Treasury Operations  
Smurfit-Stone Container Corporation  
Six CityPlace Drive  
Creve Coeur, MO 63141

**Re: New Lenox/Cherry Hill Subordination, Non-Disturbance and Attornment Agreement**

Dear Karen:

Enclosed for your files please find a fully-executed, original Subordination, Non-Disturbance, and Attornment Agreement for the New Lenox/Cherry Hill facility. This agreement protects Smurfit in the event of foreclosure by our landlord's lender, so long as Smurfit is not then in default under the Lease.

Please feel free to contact me with any questions or concerns.

Sincerely,

Daniel J. Burke, Jr.

DJB  
Encl.

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

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "Agreement"), made this 31<sup>st</sup> day of August, 2008, by, between and among **Cherry Hill Nine LLC ("Landlord")**, **Smurfit Stone Container Enterprises, Inc. ("Tenant")** and **Jackson National Life Insurance Company**, a Michigan corporation ("**Lender**").

**WHEREAS**, Landlord and Tenant have entered into that certain Industrial Building Lease dated June 8, 2007, and that certain First Amendment to Industrial Building Lease dated February 29, 2008 (the "**Lease**") whereby Tenant agreed to lease from Landlord certain premises located in Will County, Illinois and more fully described on Exhibit A hereto and incorporated herein (the "**Leased Premises**"); and

**WHEREAS**, Lender has agreed to grant a loan to Landlord (the "**Loan**") which Loan is to be secured by a deed of trust or mortgage, including the Leased Premises (the "**Mortgage**"), by an Assignment of Landlord's interest in all leases, rents, profits and contracts for such property (the "**Assignment of Leases**").

**WHEREAS**, Tenant has requested that Lender agree not to disturb Tenant's possessory rights in the Leased Premises if Lender should foreclose its Mortgage provided that Tenant is not in default under the Lease and further provided that Tenant attorns to Lender or the purchaser at any foreclosure sale or to any party who takes a deed in lieu of foreclosure; and

**WHEREAS**, Lender is willing so to agree on the terms and conditions hereafter provided.

**NOW THEREFORE**, in consideration of the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord, Tenant and Lender covenant and agree as follows:

1. The Lease and Tenant's leasehold estate created thereby, including all rights under the Lease, shall be and are completely and unconditionally subject and subordinate to the lien of the Mortgage and to all the terms, conditions and provisions thereof, to all advances made to or to be made thereunder, to any renewals, extensions, modifications or replacements thereof, and to any subsequent mortgage with which the Mortgage may be spread and/or consolidated.
2. No representations, warranties or covenants, either in oral or in writing, have been made by Landlord or Tenant other than those contained in the Lease or Lease Amendments more fully described in the Estoppel Certificate, of even date herewith, and which have been provided to Lender.
3. Tenant agrees that it will attorn to and recognize any purchaser at a foreclosure sale under the Mortgage, any person or entity who acquires the real property of which the Leased

Premises form a part by deed in lieu of foreclosure, and the successors and permitted assigns of such purchaser, as its Landlord for the unexpired balance (and any extensions, if exercised) of the term of the Lease upon the same terms and conditions set forth in the Lease.

4. In the event that it should become necessary to foreclose the Mortgage, Lender agrees that, so long as Tenant shall not be in default under the Lease (after the expiration of any applicable cure period), Tenant's right of possession and enjoyment of the Leased Premises shall be and remain undisturbed and unaffected by any foreclosure or other proceedings involving the Mortgage. Lender further acknowledges that, so long as the Tenant is not in default under the Lease (after the expiration of any applicable cure period), Tenant's renewal options and right of first refusal pursuant to the Lease shall remain undisturbed by any foreclosure or other proceedings involving the Mortgage and the purchaser of the Leased Premises at foreclosure of the Mortgage shall have the obligations to the Tenant described in the Lease, including Sections 42 and 44 thereof.
5. In the event that Lender or any other party shall succeed to the interest of Landlord under the Lease, or otherwise becomes entitled to and takes possession of the Property, Lender, or any subsequent owner, shall not be:
  - A. Liable for any act or omission of any prior landlord (including Landlord); or
  - B. Liable for the return of any security deposit unless such security deposit has physically been received by Lender; or
  - C. Subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or
  - D. Bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or
  - E. Bound by any amendment, modification, financial settlement or termination of the Lease or by any waiver of any material term of the Lease made without Lender's written consent; or
  - F. Obligated to reimburse Tenant for any costs which arise from the failure to have the Premises completed and ready for occupancy within the time requirements if any by the Lease; or
  - G. Obligated or liable with respect to the construction and completion of any improvements for Tenant's use and occupancy.
6. Tenant shall not pay an installment of rent or any part thereof more than thirty (30) days prior to the due date of such installment.
7. Tenant agrees to give Lender, by registered mail, a copy of any notice of default served upon the Landlord, provided that prior to such notice Tenant has been notified in writing (by way of Notice of Assignment of Rents and Leases or otherwise) of the address of such

Lender. This Agreement shall constitute notice to Tenant of Lender's address as set forth below. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in the Lease, then the Lender, if it elects to cure such default, shall have an additional (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary. If within such thirty (30) days, Lender has commenced and is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure), in which event the Lease shall not be terminated while such remedies are being so diligently pursued.

8. After notice is given to Tenant by Lender, pursuant to the Assignment, that the rentals under the Lease should be paid to Lender, Tenant shall pay to Lender, or in accordance with the directions of Lender, all rentals and other monies due and to become due to Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments to Lender and hereby releases and discharges Tenant of and from any liability to Landlord on account of any such payments.
9. This Agreement shall inure to the benefit of and shall be binding upon Tenant, Landlord and Lender, and their respective heirs, personal representatives, successors and assigns. This Agreement shall be governed by and construed according to the laws of the State of Illinois.
10. Where under this document rights and obligations are created between Tenant and Lender, at or subsequent to foreclosure proceedings, "Lender" shall be deemed to include any purchaser at a foreclosure sale or trustee's sale and any purchaser acquiring title through mortgage foreclosure proceedings.
11. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage.

**IN WITNESS WHEREOF**, the parties hereto cause this Agreement to be duly executed the day and year first above written.

**Landlord:**

**Address:**

5060 River Road  
Schiller Park, Illinois 60176

CHERRY HILL NINE, LLC  
(An Illinois Limited Liability Company)

By:   
Its: Thomas D. Grusecki, Manager

**Tenant:**

**Address:**

Six CityPlace Drive  
Creve Coeur, MO 63141  
Attn: Karen Copeland

SMURFIT STONE CONTAINER  
ENTERPRISES, INC.  
(a Delaware corporation)

By:   
Its: SENIOR VICE PRESIDENT, SECRETARY  
AND GENERAL COUNSEL

**Lender:**

**Address:**

Closing Department  
225 West Wacker Drive  
Suite 1200  
Chicago, Illinois 60606

**PPM FINANCE, INC., as a agent for**  
**JACKSON NATIONAL LIFE**  
**INSURANCE COMPANY, (A Michigan**  
**Corporation)**

By:   
Its: Synove Maraffino  
VP-Settlements & Administration

STATE OF Illinois )  
 ) ss  
COUNTY OF Will )

On the 24 day of September, 2008, before me, a notary public in and for the State and County aforesaid, personally appeared Thomas D. Grusecki, who acknowledged himself to be the Manager of Cherry Hill Nine LLC, An Illinois Limited Liability Company, and that he/she as such officer, being authorized to do, executed the foregoing instrument for the purposes therein contained by signing the name of the authorized agent of the Company by himself as such Manager.

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

[Signature]  
Notary Public  
My Commission Expires:



STATE OF Missouri )  
 ) ss  
COUNTY OF St. Louis )

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, before me, a notary public in and for the State and County aforesaid, personally appeared Craig A. Hunt, who acknowledged himself/herself to be the Sr. VP, Secretary & General Counsel of Smartfit-Stone Container Enterprises, Inc., and that he/she as such officer, being authorized to do, executed the foregoing instrument for the purposes therein contained by signing the name of the authorized agent of the Company by himself/herself as such Sr. VP, Secretary & General Counsel.

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



[Signature]  
Notary Public  
My Commission Expires: 9/1/09

STATE OF IL )  
 ) ss  
COUNTY OF Cook )

On the 29th day of Sept, 2008, before me, a notary public in and for the State and County aforesaid, personally appeared Synove Maraffino, who acknowledged himself/herself to be the VP-Settlements & Administration of [Company], and that he/she as such officer, being authorized to do, executed the foregoing instrument for the purposes therein contained by signing the name of the authorized agent of the \_\_\_\_\_ by himself/herself as such \_\_\_\_\_.

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

[Signature]  
Notary Public  
My Commission Expires: 4-6-11

