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Cook County Recorder of Deeds
Date: 01/12/2005 11:56 AM Pg: 1 of 7

THIS DOCUMENT HAS BEEN
PREPARED BY, AND AFTER
RECORDATION SHOULD BE
RETURNED TO:

Arnstein & Lehr LLP
120 South Riverside Plaza
Suite 1200
Chicago, Illinois 60606
Attention: Alan Goldberg

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

THIS AGREEMENT is made this December 13, 2004, by and between Crystal Lake Bank & Trust Company, N.A. (the "**Lender**") and Banbury Metrolofts, LLC (the "**Tenant**") with reference to the following facts:

A. The Tenant has entered into a certain lease dated May 1, 2003 (as amended, and supplemented, the "**Lease**") with Banbury Properties, LLC (the "**Landlord**"), covering 101 West Campbell Street in the premises commonly known as (the "**Leased Premises**").

B. The Lender has agreed to make a mortgage loan in the amount of Dollars (\$5,600,000.00) (the "**Loan**") to Landlord, secured in part by a mortgage (as amended and supplemented from time to time, the "**Mortgage**") covering certain property legally described on **Exhibit A** attached hereto and hereby made a part hereof (the "**Property**"). The Property includes the Leased Premises, and the Lender has required as a condition precedent to the making of the Loan that the Mortgage, and the other documents relating to the Loan, constitute a lien upon all of the Property, including the Premises, which is unconditionally prior and superior to all right, title and interest of the Tenant under the Lease.

C. The parties hereto desire to set forth their agreement regarding their respective interests in the Leased Premises as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties, the sum of TEN DOLLARS (\$10.00) by each party paid to the other, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree and covenant as follows:

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1. The Lease is and shall at all times continue to be subject and subordinate in all respects to the lien, priority, terms and provisions of the Mortgage and to any and all renewals, modifications, consolidations, replacements and extensions thereof, including without limitation, those which increase the amount of the indebtedness or the Loan secured thereby, to the full extent of amounts secured thereby and interest thereon, and to any future mortgage or mortgages affecting the Leased Premises which may be held by the Lender.

The subordination which the Tenant makes in this Agreement is unconditional and is and shall be binding upon the Tenant without regard to any term or condition of the Mortgage, the Note (as amended and supplemented from time to time, the "**Note**") which it secures or any other document relating to the Loan (collectively as amended and supplemented from time to time, the "**Loan Documents**") including, but not limited to, the interest rate, late charges and default rate of interest charged pursuant to the Note, and the fact that the Loan Documents may provide that some of the principal of the Note may be paid out over time for such purposes as the Lender, in its sole discretion, may allow. It is further agreed by the Tenant that the subordination given hereby shall not be affected and shall remain in full force and effect without regard to whether, or the manner in which, any funds to be disbursed pursuant to the Loan Documents are disbursed, the Tenant hereby acknowledges that the Lender has no duty to the Tenant to require the proper disbursement of such funds.

2. The Lender agrees that so long as the Lease remains in full force and effect, and the Tenant is not in default in the performance of any of its obligations under the Lease, including the obligation to make rental payments when and as such payments become due (or any period within which the Tenant may cure such default has not expired), the Lender shall not disturb or otherwise interfere with the Tenant's possession of the Leased Premises, nor shall any of the rights and privileges of the Tenant under the Lease, or any renewal or extension thereof, be in any manner diminished or affected by the Lender, all notwithstanding any default by Landlord, or its successors, under the Mortgage or other instrument under which the Lender claims an interest in the Property.

3. The Tenant further agrees that it will attorn to and recognize any mortgagee in possession, pursuant to the terms of the Mortgage or Assignment of Leases entered into between Landlord and the Lender, any receiver, any purchaser at a foreclosure sale under the Mortgage, any transferee who acquires the Property by deed in lieu of foreclosure, and the successors and assigns of any thereof, as its landlord for the unexpired balance (and any extensions, if exercised) of the term of the Lease upon the same terms and conditions as set forth in the Lease.

4. If it becomes necessary for the Lender to foreclose the Mortgage, the Lender will not terminate the Lease nor join the Tenant in such foreclosure proceedings

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so long as the Tenant is not in default under any of the terms, covenants, or conditions of the Lease.

5. If the Lender succeeds to the interest of Landlord under the Lease, the Lender shall not be:

5.1 Liable for any act or omission of Landlord or any prior landlord;

5.2 Liable for the return of any security deposit which is not actually transferred to the Lender;

5.3 Subject to any offsets or defenses which the Tenant might have against Landlord or any prior or successor landlord;

5.4 Bound by any rent or additional rent which the Tenant may have paid to Landlord or any prior or successor landlord for more than the then current month; or

5.5 Bound by any amendment or modification of the Lease made without the Lender's prior written consent.

6. So long as the Mortgage remains a lien against the Property, the Tenant shall not; (a) pay any rent under the Lease more than one month in advance of the date payment is due under the terms of the Lease; (b) surrender or consent to the termination of the lessee's estate under the Lease or allow the cancellation of the Lease; or (c) consent to any modification of the Lease

7. The Tenant agrees to notify the Lender of any notice of default relating to the Lease which is served upon the Landlord or its successor, and to send a copy of such notice of default to the Lender. If Landlord or its successor shall not cure such default within the time provided in the Lease, then the Lender shall have an additional thirty (30) days within which to cure such default, which period shall commence upon the expiration of any cure period extended to Landlord pursuant to the Lease or if such default cannot be cured within that time, then the Lender shall have such additional time as may be necessary if, within such thirty (30) days, the 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 by the Tenant while such remedies are being so diligently pursued.

8. Except as otherwise provided in this Agreement, any and all notices, consents, waivers, directions, requests, votes or other instruments or communications provided for under this Agreement shall be in writing, signed by the party giving the same, and shall be deemed properly given only if delivered in person, or if sent by

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registered or certified U.S. Mail, postage prepaid, or express courier, freight charges paid, and addressed as follows:

If to Bank: Crystal Lake Bank & Trust Company, N.A.
70 N. Williams Street
Crystal Lake, IL 60014
Attn: Kevin Myers

with a copy to: Arnstein & Lehr LLP
120 South Riverside Plaza, Suite 1200
Chicago, Illinois 60606
Attn: Allan Goldberg, Esq.

If to Tenant: Banbury metrolofts, LLC
171 W Wing Street Attn: Manager
Arlington Heights, IL
60005

with a copy to: _____

Any notice so given shall be deemed to have been received as of the date on which it was mailed or sent, provided that the notice is actually received in due course. Any party may, by written notice to the other, specify any other address within the United States for the receipt of such instructions or communications. Any such communications sent by telegram shall be deemed properly given when received by the person to whom it is sent.

9. The language in all parts of this Agreement in all cases shall be construed simply according to its fair meaning and not strictly for or against any party. All words used herein in the singular number shall extend to and include the plural number. All words used herein in the plural number shall extend to and include the singular number. All words used in any gender, male, female or neuter shall extend to and include all genders as may be applicable in any particular context. Captions and headings contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision of this Agreement.

10. This Agreement embodies the entire agreement and understanding among the parties hereto relating to the subject matter hereof and supersedes all prior agreements, understandings, representations and discussions and cannot be modified in any respect except by an agreement in writing signed by the parties hereto.

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11. In case any one or more of the provisions contained in this Agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

12. This Agreement may be modified only in writing signed by the parties hereto or their respective successors in interest. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, it being expressly understood that all references to the "Lender" shall be deemed to include not only the Lender but also its successors and assigns, including any purchaser at a foreclosure sale.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

TENANT:
Banbury Metrolofts, LLC, a Limited Liability Company

By: *Alan S. Cumby* For Metroscopes, LLC, the sole member
Its: *Manager*

LENDER:
Crystal Lake Bank & Trust Company, N.A.

By: *[Signature]*
Its: *SVP*

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EXHIBIT A

LOTS 2 AND 3 IN METROPOLIS SUBDIVISION, BEING A RESUBDIVISION OF LOTS 1, 2, 3, 4 AND 17 IN SEIBURG'S SUBDIVISION, THE EAST 1/2 OF LOTS 1 AND 2 IN BLOCK 25 IN THE TOWN OF DUNTON AND VACATED STREETS ADJOINING THERETO, ACCORDING TO THE PLAT OF RESUBDIVISION RECORDED MARCH 15, 1999 AS DOCUMENT 99243785, IN COOK COUNTY, ILLINOIS

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