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Doc#: 0512418103
Eugene "Gene" Moore Fee: \$40.50
Cook County Recorder of Deeds
Date: 05/04/2005 02:39 PM Pg: 1 of 9

RECORDING COVER SHEET

Property of Cook County Clerk's Office

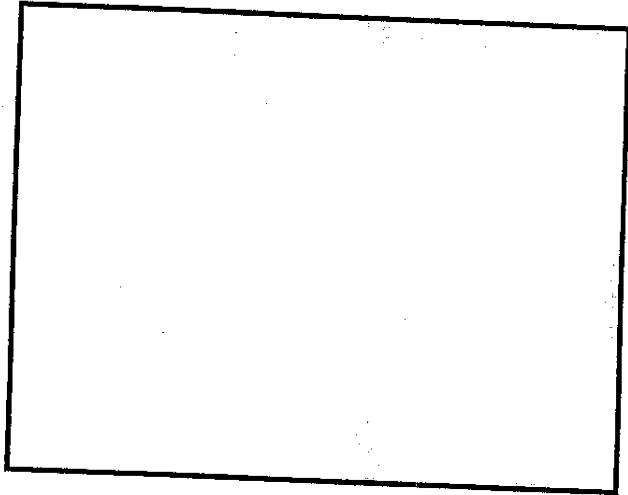
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WHEN RECORDED MAIL TO:

Blockbuster Inc.
3000 Redbud Blvd,
McKinney, TX 75069
Attn: Melinda Payne, Lease Administrator

DEMISED PREMISES:

Blockbuster Inc. #17087
Lemont, Illinois



SHADED BOX FOR RECORDER'S USE

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made and entered into this 2nd day of February, 2005, by and between **BLOCKBUSTER INC.**, a Delaware corporation (the "Tenant"), and **LEMONT VENTURE, L.L.C.**, an Illinois limited liability company (the "Landlord"), and **CIBC** (the "Lender").

RECITALS:

WHEREAS, Landlord executed a Lease dated as of October 13, 1997 in favor of Tenant, a memorandum of which may be recorded simultaneously herewith, covering a certain Demised Premises therein described located on a parcel of real estate, a legal description of which is attached hereto and incorporated herein by this reference as Exhibit "A" (said parcel of real estate and the Demised Premises being sometimes collectively referred to herein as the "Property"); and

WHEREAS, Landlord has executed a Mortgage, Assignment of Leases and Rents and Security Agreement (the "Mortgage") dated February 2, 2005, and recorded on February 3, 2005, at Volume XXXXXXXXXXXXX Page XXXXXXXXXXXXXXXXXXXX of the Records of Cook County, State of Illinois in favor of Lender, payable upon the terms and conditions described therein; and

WHEREAS, it is a condition to said loan that said Mortgage shall unconditionally be and remain at all times a lien or charge upon the Property, prior and superior to the Lease and to the leasehold estate created thereby; and

WHEREAS, the parties hereto desire to assure Tenant's possession and control of the Property under the Lease upon the terms and conditions therein contained;

NOW, THEREFORE, for and in consideration of the mutual covenants and premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed by the parties hereto, the parties hereto do hereby agree as follows:

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AGREEMENT

1. The Lease is and shall be subject and subordinate to the Mortgage, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all future advances made thereunder.

2. Should Lender become the owner of the Property, or should the Property be sold by reason of foreclosure, or other proceedings brought to enforce the Mortgage which encumbers the Property, or should the Property be transferred by deed in lieu of foreclosure, or should any portion of the Property be sold under a trustee's sale, the Lease shall continue in full force and effect as a direct lease between the then owner of the Property covered by the Mortgage and Tenant, upon, and subject to, all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, including any extensions therein provided. Tenant does hereby agree to attorn to Lender or to any such owner as its landlord, and Lender hereby agrees that it will accept such attornment.

3. Notwithstanding any other provision of this Agreement, Lender shall not be (a) liable for any default of any landlord under the Lease (including Landlord), except that Lender agrees to cure any default of Landlord that is continuing as of the date Lender forecloses the Property within thirty (30) days from the date Tenant delivers written notice to Lender of such continuing default, unless such default is of such a nature to reasonably require more than thirty (30) days to cure and then Lender shall be permitted such additional time as is reasonably necessary to effect such cure, provided Lender diligently and continuously proceeds to cure such default; (b) subject to any offsets or defenses which have accrued prior to the date of foreclosure, unless Tenant shall have delivered to Lender written notice of the default which gave rise to such offset or defense and permitted Lender the same right to cure such default as permitted Landlord under the Lease; (c) bound by any Rent that Tenant may have paid under the Lease more than one month in advance; (d) bound by any amendment or modification of the Lease which reduces the term of the Lease or Tenant's monetary obligations thereunder hereafter made without Lender's prior written consent; (e) responsible for the return of any security deposit delivered to Landlord under the Lease and not subsequently received by Lender.

4. If Lender sends written notice to Tenant to direct its Rent payments under the Lease to Lender instead of Landlord, then Tenant agrees to follow the instructions set forth in such written instructions and deliver Rent payments to Lender; however, Landlord and Lender agree that Tenant shall be credited under the Lease for any Rent payments sent to Lender pursuant to such written notice.

5. All notices which may or are required to be sent under this Agreement shall be in writing and shall be sent by first-class certified U.S. mail, postage prepaid, return receipt requested, and sent to the party at the address appearing below or such other address as any party shall hereafter inform the other party by written notice given set forth above:

If to Tenant, then to: Blockbuster Inc. # 17087
3000 Redbud Blvd.
McKinney, TX 75069
Attn: Area Lease Administrator

with a copy to: Blockbuster Inc. # 17087
The Renaissance Tower
1201 Elm Street
Dallas, TX 75270
Attn: Real Estate Counsel
Law Department

If to Landlord, then to: Lemont Venture, LLC
c/o Edgemark Asset Management
2215 York Road, Suite 503
Oak Brook, Illinois 60523-4016

If to Lender, then to: CIBC World Markets
300 Madison Avenue
8th Floor
New York, NY 10017
Attn: Peter Oberndorfer

All notices delivered as set forth above shall be deemed effective three (3) days from the date deposited in the U.S. Mail.

6. Said Mortgage shall not cover or encumber and shall not be construed as subjecting in any manner to the lien thereof any of Tenant's improvements or trade fixtures, furniture, equipment or other personal property at any time placed or installed in the Premises. In the event the Property or any part thereof shall be taken for public purposes by condemnation or transfer in lieu thereof or the same are damaged or destroyed, the rights of the parties to any condemnation award or insurance proceeds shall be determined and controlled by the applicable provisions of the Lease.

7. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors in interest, heirs and assigns and any subsequent owner of the Property secured by the Mortgage.

8. Should any action or proceeding be commenced to enforce any provisions of this Agreement or in connection with its meaning, the prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, not limited to taxable costs and reasonable attorney's fees.

9. Tenant shall not be joined as a party/defendant in any action or proceeding which may be instituted or taken by reason or under any default by Landlord in the performance of the terms, covenants, conditions and agreements set forth in the Mortgage.

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STATE OF NEW YORK)
) SS.
COUNTY OF NEW YORK)

I, Michael J. Hurley Jr., a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **TODD ROTH**, personally known to me to be the **AUTHORIZED SIGNATORY** of **CIBC INC**, a Delaware corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as **AUTHORIZED SIGNATORY** of said corporation, and caused the corporation seal of said corporation to be affixed thereto, as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this February 2, 2005.



Notary Public

My Commission Expires: _____

MICHAEL J. HURLEY JR.
Notary Public, State of New York
No. 02HU6065471
Qualified in Westchester County
Commission Expires October 22, 2005

Notary of Cook County Clerk's Office

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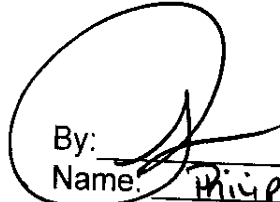
WITNESSES:

Print Name: _____

Print Name: _____

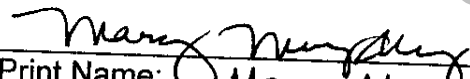
LANDLORD:

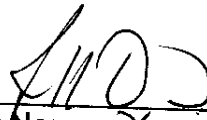
LEMONT VENTURE, L.L.C.
an Illinois limited liability company

By: 

Name: Philip S. Marcone
Title: MANAGER

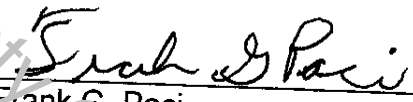
WITNESSES:


Print Name: Mary Murphy


Print Name: RICHARD DAPPER

TENANT:

BLOCKBUSTER INC.,
a Delaware corporation

By: 
Frank G. Paci
Executive Vice President

[Acknowledgment of Lender]

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by _____, as _____ of CIBC, on behalf of the _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Notary Public Signature _____
Printed/Typed Name: _____
Commission No.: _____
My commission expires: _____

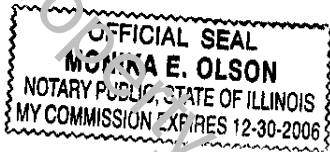
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[Acknowledgment of Landlord]

STATE OF Illinois)

COUNTY OF DePage)

The foregoing instrument was acknowledged before me this 4 day of February, 2005, by Phil Marrou, as Manager of Lemont Venture, L.L.C., an Illinois limited liability company on behalf of the company. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.



[Handwritten Signature]

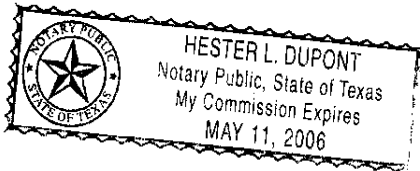
Notary Public Signature
Printed/Typed Name: MONIKA E. OLSON
Commission No.: 710571
My commission expires: 12/30/06

(Acknowledgment of Tenant)

STATE OF TEXAS)

COUNTY OF COLLIN)

The foregoing instrument was acknowledged before me this 16 day of January, 2005, by FRANK G. PACI, EXECUTIVE VICE PRESIDENT of BLOCKBUSTER INC., a Delaware corporation, on behalf of the corporation. He is personally known to me and did not take an oath.



[Handwritten Signature]

Notary Public Signature
Printed/Typed Name: _____
Commission No.: _____
My commission expires: _____

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EXHIBIT "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION OF SHOPPING CENTER

Lots 1, 2, 3, 4, 5, 6 & 7 in ASPI, a resubdivision of Outlot "B" (excepting therefrom the southerly 150 feet as measured along the westerly line), Outlot "C" (excepting therefrom that part conveyed to the State of Illinois by document number 93701695) and Lots 32, 33, 34, 35 and 36, inclusive, in Emerald Acres, a subdivision of part of Lot 17, 18 and 20, in County Clerk's division of Section 32, Township 37 North, Range 11 East of the Third Principal Meridian, in Lemont Township, in Cook County, Illinois.

LEGAL DESCRIPTION OF LANDLORD'S PARCEL

Lot 2 in ASPI, a resubdivision of Outlot "B" (excepting therefrom the southerly 150 feet as measured along the westerly line), Outlot "C" (excepting therefrom that part conveyed to the State of Illinois by document number 93701695) and Lots 32, 33, 34, 35 and 36, inclusive, in Emerald Acres, a subdivision of part of Lot 17, 18 and 20, in County Clerk's division of Section 32, Township 37 North, Range 11 East of the Third Principal Meridian, in Lemont Township, in Cook County, Illinois.