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PREPARED BY:
Bina Callaghan

WHEN RECORDED RETURN TO:

Commercial Loan Services
IL-10561
21 North Randall Street, Floor 1
Elk Grove Village, IL 60007-1013

Doc#: 0524312102 Fee: \$42.50
Eugene "Gene" Moore
Cook County Recorder of Deeds
Date: 08/31/2005 10:13 AM Pg: 1 of 10



Property of Cook County Office

BANK ONE

A division of JPMorgan Chase Bank, N.A.

Subordination, Non-Disturbance and Attornment Agreement

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is dated as of May 27, 2005, among JPMorgan Chase Bank, N.A., whose address is 21 North Randall Street, Elk Grove Village, IL 60007, and its successors and assigns (the "Mortgagee"), LaSalle Bank National Association, successor trustee to American National Bank, & Trust Company of Chicago as Trust 124699-04 (the "Landlord") and Pets International, Ltd., whose address is 2121 Touhy Avenue (the "Tenant").

~~and not personally~~

RECITALS:

- A. The Landlord and the Tenant have entered into a Industrial Building Lease dated May 31st 2005, which Industrial Building Lease covers certain premises (the "Premises") in the real property (the "Property") commonly known as 2121 Touhy Avenue, Elk Grove Village, Illinois 60007 and more particularly described on the attached Exhibit A (said Industrial Building Lease and any and all amendments, modifications, extensions, renewals, consolidations and replacements thereof, whether now existing or hereafter entered into, are collectively called the "Lease");
- B. The Landlord is the owner of fee simple title to the Property and the Premises;
- C. The Mortgagee has made or has agreed to make a loan or other extension of credit to the Landlord, secured or to be secured by, among other collateral, a mortgage from the Landlord to the Mortgagee (said mortgage and all amendments, modifications, extensions, renewals, consolidations and replacements thereof, whether now existing or hereafter entered into, are collectively called the "Mortgage") on the Property; and

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- D. The Tenant has agreed to subordinate the Lease to the lien of the Mortgage and the Mortgagee has agreed to grant non-disturbance to the Tenant under the Lease on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. **Subordination.** The Lease, and all of the terms, covenants and provisions thereof (including but not limited to purchase options and first refusal rights), is subordinate in all respects to the Mortgage, to the full extent of any and all of the Liabilities (as defined in the Mortgage), all with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease.
2. **Attornment.** The Tenant, for itself and its successors and assigns, agrees that it will attorn to and recognize the Mortgagee or any other New Landlord (as defined below), and the successors and assigns of the Mortgagee or any other New Landlord, as its landlord for the unexpired balance (and any extensions or renewals, if previously, at that time or thereafter exercised by the Tenant) of the term of the Lease upon the same terms and conditions set forth in the Lease, subject to the limitations on liability that are set forth in Paragraph 3 below. This attornment to be effective and self-operative without the execution of any further instruments.
3. **Non-disturbance.** The Mortgagee, for itself and its successors and assigns, for any purchaser at any foreclosure, public or private sale under the Mortgage, for any transferee who acquires the Property by deed in lieu of foreclosure or otherwise, and for the successors and assigns of such purchaser and transferee (the Mortgagee and each such other party being collectively called "New Landlord") hereby covenants and agrees with the Tenant that if any New Landlord shall commence foreclosure of the Mortgage, for any reason whatsoever, or shall succeed to the interest of the Landlord by foreclosure, sale by advertisement, power of sale, deed in lieu thereof or otherwise, and provided the Tenant is not then in default (after expiration of any applicable grace period) under the Lease, then: (a) the Tenant shall not be named as a party defendant in any foreclosure action, exercise of power of sale, sale by advertisement or any other proceeding to enforce the Mortgage, unless the Tenant is deemed to be a necessary party (in which case Mortgagee or New Landlord shall reimburse Tenant for any and all reasonable costs and expenses incurred by Tenant in connection with same, including without limitation all reasonable costs and expenses for travel, lodging, time, and attorneys' fees and costs); (b) subject to the next succeeding grammatical paragraph, the Lease shall, in accordance with its terms, remain in full force and effect as a direct indenture of lease between such New Landlord and the Tenant, with the same force and effect as if originally entered into with such New Landlord; and (c) the Tenant's possession of the Premises and the Tenant's rights and privileges under the Lease shall not be diminished, interfered with or disturbed by any New Landlord by such foreclosure, sale or other action under the Mortgage or by any such attempt to foreclose, sell or succeed to the interests of the Landlord by foreclosure, exercise of power of sale, sale by advertisement, deed in lieu thereof or otherwise.

If any New Landlord shall succeed to the interest of the Landlord under the Lease, the Tenant agrees as follows:

- (a) Such New Landlord shall not be: (i) subject to any credits, offsets, abatements, deductions, defenses, claims or counterclaims, of any nature or type, that the Tenant might have against any prior landlord (including the Landlord) except as may relate to continuing defaults of the New Landlord under the Lease; (ii) bound by any rent or additional rent that the Tenant shall have paid more than one (1) month in advance to any prior landlord (including the Landlord); (iii) bound by any covenants to undertake or complete any improvement to the Premises or the Property except as may be contained in the Lease; or (iv) bound by any of the following unless included in the Lease or consented to in writing by the New Landlord: (A) any amendment, modification, renewal or extension (except for extensions unilaterally made by the Tenant pursuant to extension options that are contained in the Lease) to the Lease, (B) any assignment, sublease, mortgage, encumbrance or other disposition of all or any part of the Tenant's interest in the Lease or the Premises, (C) any surrender, cancellation or termination of the Lease, whether in whole or in part (unless the surrender, cancellation or termination is effected unilaterally by the Tenant under a specific term of the Lease; provided, however, that if the Tenant's right to cancel, surrender or terminate the Lease arises because of a default by the Landlord under the Lease, the Tenant shall not terminate, cancel or surrender the Lease because of that default unless (1) the Landlord is in default under the Lease beyond any cure period provided in the Lease; (2) the Tenant has given the Mortgagee prior written notice of the default as provided in Paragraph 5 below; and (3) the cure period provided to the Mortgagee in Paragraph 5 below has expired without the Mortgagee having cured the default), or (D) any waiver of any provision of the Lease, in each of cases (A) through (C) above, that has not been consented to in writing by the Mortgagee;

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(b) No New Landlord shall be liable for: (i) any act or omission of any prior landlord (including the Landlord); (ii) the return of any security deposit made by the Tenant to any prior landlord (including the Landlord), unless such New Landlord shall have actually received such security deposit from the prior landlord; or (iii) any payment to the Tenant of any sums or allowances, or any granting to the Tenant of any credit, abatement or other rental concession, in the nature of a contribution towards the cost of preparing, furnishing or completing improvements at, or moving into, the Premises, the Property or any portion thereof (except in all cases as may be included in the Lease and which are to be effective or granted following the date such New Landlord acquires the Property);

(c) The Tenant shall look solely to the Property for the recovery of any judgment or damages from the Mortgagee or any other New Landlord and neither any New Landlord, any partner, officer, director, shareholder, member, manager, employee or agent of any of them or any successor or assign of any of the foregoing shall have any personal liability, directly or indirectly, under or in connection with the Lease, this Agreement or any amendment or amendment to either the Lease or this Agreement made at any time or times heretofore or hereafter. The Tenant hereby forever and irrevocably waives and releases any and all such personal liability. The limitation of liability provided in this paragraph is in addition to, and not in limitation of, any limitation on liability applicable to any New Landlord under this Agreement, at law, in equity or under any other contract, agreement or instrument; and

(d) The Mortgagee shall be released from all duties and obligations under the Lease from and after the date that it conveys its interest in the Property to any third party.

4. **Mortgagee's Consent.** The Landlord's consent, approval or waiver under or with respect to the Lease, the Premises or any matter related thereto shall not be effective unless such consent, approval or waiver is accompanied by written consent of the Mortgagee. No such consent, approval, or waiver shall be unreasonably withheld, conditioned, or delayed.
5. **Landlord's Default.** The Tenant hereby agrees to provide the Mortgagee with prompt written notice of any default under the Lease by the Landlord and to provide the Mortgagee a period of time equal to (a) thirty (30) days in excess of the Landlord's cure period, if any, under the Lease in connection with such default by the Landlord, plus (b) such reasonable period of time as is necessary thereafter to remedy such default if the Mortgagee has commenced and is diligently pursuing such remedy. Notwithstanding the foregoing, the Tenant agrees that the Mortgagee shall have no obligation to remedy any such Landlord default.
6. **Estoppel Certificate.** The Tenant agrees at any time and from time to time to execute, deliver and acknowledge to the Landlord, to the Mortgagee or to any third party designated by the Landlord or by the Mortgagee, within twenty (20) days following the Landlord's or the Mortgagee's written request therefore: (a) a statement in writing certifying that (i) the Lease is in full force and effect, (ii) the Landlord is not in default thereunder (or specifying any defaults by the Landlord that the Tenant alleges), (iii) rent has not been prepaid more than one (1) month in advance and (iv) any further information about the Lease or the Premises that the Landlord, the Mortgagee or said third party may reasonably request; (b) a statement in writing that the Tenant will recognize any New Landlord as the assignee of the Landlord's rights under the Lease; and (c) a statement in writing acknowledging or denying receipt of notice of any conditional or security assignment of the Lease to any third party. The Tenant understands that the Mortgagee and/or prospective purchasers, other mortgagees or lessors of the Premises or any part thereof will rely on such certificates. The Tenant's obligation to deliver such certificates within twenty (20) days, as described above, is a material obligation of the Tenant hereunder and under the Lease.
7. **Further Subordination.** The Tenant, for itself and its successors and assigns, agrees that, without the prior written consent of the Mortgagee, the Tenant will not, with respect to the Lease or the Premises: (a) enter into any subordination agreement with any person other than the Mortgagee; or (b) agree to attorn to or recognize any purchaser or transferee of the Property at any foreclosure sale, by exercise of power of sale, by sale by advertisement by deed in lieu thereof or otherwise, in each case, under any lien other than that of the Mortgage (provided, however, that this provision shall not be deemed to constitute the Mortgagee's consent to the placing of any lien other than the Mortgage on the Property).
8. **Insurance Proceeds and Condemnation Awards.** The Tenant agrees that any interest of the Tenant in any condemnation or eminent domain proceeds or awards made with respect to any interest in the Premises and/or the Property shall be subordinate to the interests of the Mortgagee in such proceeds or awards. The Tenant will neither seek nor accept any, condemnation or eminent domain proceeds or awards made with respect to any interest in the Premises and/or the Property

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until all amounts secured by the Mortgage have been paid in full. However, the Tenant reserves the right to make a separate claim for trade fixtures and moving expenses if separately allocated.

- 9. Modification of Liabilities.** From time to time, the Mortgagee may, without notice to or consent of the Tenant and without impairing or affecting this Agreement, do any of the following as to any of the Liabilities: (a) amend, modify, extend, or renew any or all of the Liabilities; (b) change the rate of interest being charged on any or all of the Liabilities; (c) release the Landlord, any guarantor, any surety or any other third party from liability on any or all of the Liabilities; (d) compromise or settle the terms of any or all of the Liabilities; (e) forbear or agree to forbear from taking any action against the Landlord, any guarantor, any surety or any other party in regard to any or all of the Liabilities; or (f) substitute, release, exchange, or take any other action in regard to any collateral, including the Property, for any or all of the Liabilities.
- 10. Notice.** Any notices and demands under or related to this document shall be in writing and delivered to the intended party at its address stated herein, and if to the Mortgagee, at its main office if no other address of the Mortgagee is specified herein, by one of the following means: (a) by hand, (b) by a nationally recognized overnight courier service, or (c) by certified mail, postage prepaid, with return receipt requested. Notice shall be deemed given: (a) upon receipt if delivered by hand, (b) on the Delivery Day after the day of deposit with a nationally recognized courier service, or (c) on the third Delivery Day after the notice is deposited in the mail. "Delivery Day" means a day other than a Saturday, a Sunday or any other day on which national banking associations are authorized to be closed. Any party may change its address for purposes of the receipt of notices and demands by giving notice of such change in the manner provided in this provision.
- 11. Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. The Tenant and the Landlord agree that the Mortgagee may at any time sell or transfer one or more participation interests in all or any part of the Liabilities to one or more purchasers, whether or not related to the Mortgagee.
- 12. Recording.** The parties hereto agree that this Agreement may be recorded in the public records of the county in which the Property is located.
- 13. Counterparts.** This Agreement may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Agreement.
- 14. Captions.** Captions in this Agreement are for convenience of reference only and do not limit the provisions of this Agreement.
- 15. Time.** Time is of the essence in this Agreement.
- 16. Information Waiver.** The Tenant and the Landlord agree that the Mortgagee may provide any information or knowledge the Mortgagee may have about the Landlord, the Tenant or any matter relating to this Agreement or the Related Documents (as defined in the Mortgage) to JPMorgan Chase & Co., or any of its subsidiaries or affiliates or their successors or to any one or more purchasers or potential purchasers of all or any part of the Liabilities and/or any Related Documents.
- 17. Governing Law and Venue.** This Agreement is delivered in the State of Illinois and governed by Illinois law (without giving effect to its laws of conflicts). The Landlord and the Tenant agree that any legal action or proceeding with respect to any of their obligations under this Agreement may be brought by the Mortgagee in any state or federal court located in the State of Illinois, as the Mortgagee in its sole discretion may elect. By the execution and delivery of this Agreement, the Landlord and the Tenant submit to and accept, for themselves and in respect of their property, generally and unconditionally, the non-exclusive jurisdiction of those courts. The Landlord and the Tenant waive any claim that the State of Illinois is not a convenient forum or the proper venue for any such suit, action or proceeding.
- 18. WAIVER OF SPECIAL DAMAGES.** THE LANDLORD AND THE TENANT WAIVE, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT THE UNDERSIGNED MAY HAVE TO CLAIM OR RECOVER FROM THE MORTGAGEE IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

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19. JURY WAIVER. THE LANDLORD, THE TENANT AND THE MORTGAGEE HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) AMONG ANY OF THE LANDLORD, THE TENANT AND/OR THE MORTGAGEE ARISING OUT OF OR IN ANY WAY RELATED TO THIS DOCUMENT. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE MORTGAGEE TO PROVIDE OR CONTINUE PROVIDING THE FINANCING EVIDENCED BY THE LANDLORD'S DEBT.

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

Mortgagee:

JPMorgan Chase Bank, N.A.

By: Lewis E. Rieck
Printed Name LEWIS E. RIECK VICE PRESIDENT Title

Tenant:

Pets International, Ltd.

By: Robert C. Krause
Printed Name ROBERT C. KRAUSE PRESIDENT Title

Landlord:

LaSalle Bank National Association, successor trustee to American National Bank, & Trust Company of Chicago as Trust 124699-04 and not personally

By: Annette N. Brusca
Printed Name ANNETTE N. BRUSCA Title

This instrument is executed by LASALLE BANK National Association, not personally but solely as Trustee, as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by LASALLE BANK National Association are undertaken by it solely as Trustee, as aforesaid, and not individually and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against LASALLE BANK National Association by reason of any of the terms, provisions, stipulations covenants and/or statements contained in this instrument

Bina Callaghan/L000001014724688

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ACKNOWLEDGMENT OF TENANT

State of ILLINOIS)
County of DUPAGE) ss

I, DEBORAH P. MASTERS, a Notary Public in and for said County and State, certify that ROBERT C. KRAUSE, personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she/they signed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes herein set forth.

I, _____, a Notary Public in and for said County and State, certify that _____, a _____ of _____ a(n) _____ and _____, a _____ of said _____, personally known to me to be the persons whose names are subscribed to the foregoing instrument as such _____ and _____, respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said _____, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st Day of June, 20 05

My Commission Expires: September 6, 2005, Notary Public

Deborah P. Masters



DUPAGE County Clerk's Office

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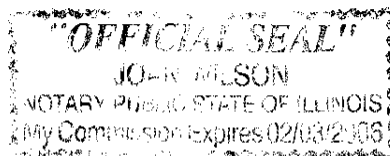
STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned Notary Public, in and for said County in the State aforesaid, do hereby certify that ANNETTE N. BRUSCA, Vice President of LASALLE BANK NATIONAL ASSOCIATION, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that she signed and delivered said instrument as her own free and voluntary act, and as the free and voluntary act of said bank, for the uses and purposes therein set forth; and said Vice President did also then and there acknowledge that she, as custodian of the Corporate Seal of said Bank, did affix said Corporate Seal to said instrument as her own free and voluntary act and as the free and voluntary act of said bank for the purposes therein set forth.

Given under my name and notarial seal this 27th day of July, 2005 .

Jean Wilson
Notary Public

My Commission Expires:



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EXHIBIT A

Located in the Town of Elk Grove Village, County of Cook, State of Illinois:

LOTS 42, 43 AND 44 IN CENTEX INDUSTRIAL PARK
UNIT NUMBER 6, BEING A SUBDIVISION IN SECTIONS
26 AND 35, TOWNSHIP 41 NORTH, RANGE 11, EAST OF
THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS

Commonly known as 2121 Touhy Avenue, Elk Grove Village, Illinois 60007,
Tax Parcel Identification No. 08-35-102-016-0000; 08-35-102-017-0000; 08-35-102-018-0000.

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ACKNOWLEDGMENT OF MORTGAGEE

State of ILLINOIS)
County of DUPAGE) ss

I, DEBORAH P. MASTERS, a Notary Public in and for said County and State,
certify that ROBERT C. KRAUSE, a _____ of _____
a(n) _____ and _____
_____ a _____ of said _____, personally known to me to be the persons

whose names are subscribed to the foregoing instrument as such _____ and _____
_____, respectively, appeared before me this day in person and acknowledged that they signed and delivered said
instrument as their own free and voluntary act and as the free and voluntary act of said _____
_____, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1ST day of JUNE, 20 05

My Commission Expires September 6, 2005, Notary Public

Deborah P. Masters



*This should
have been a
notary of
G.P. Morgan Chase's
officer*

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ACKNOWLEDGMENT OF LANDLORD

State of ILLINOIS)

County of DUPAGE) ss

I, DEBORAH P. MASTERS, a Notary Public in and for said County and State,
certify that ROBERT C. KRAUSE, a _____ of _____
a(n) _____ and _____

_____ of said _____, personally known to me to be the persons
whose names are subscribed to the foregoing instrument as such _____ and _____
_____, respectively, appeared before me this day in person and acknowledged that they signed and delivered said
instrument as their own free and voluntary act and as the free and voluntary act of said _____
_____, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st day of JUNE, 2005

My Commission Expires: September 6, 2005, Notary Public

Deborah P. Masters



This should be a notary for Sabalu Bk

Cook County Clerk's Office