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Doc#: 0622042264 Fee: \$30.00
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Cook County Recorder of Deeds
Date: 08/08/2006 02:13 PM Pg: 1 of 4

FOR RE

PREPARED BY:

Carrie Roca-Dawson
Merrill Lynch Business Financial
Services Inc.
222 North LaSalle Street
17th Floor
Chicago, Illinois 60601

Property of Cook County Clerk's Office

TENANT SUBORDINATION AGREEMENT

MADE BY

B.L. DOWNEY CO., INC.
TENANT

FOR THE BENEFIT OF

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.
MLBFS

Box 400-CTCC



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TENANT SUBORDINATION AGREEMENT

TENANT SUBORDINATION AGREEMENT (Agreement") dated as of July 27, 2006 made by **B.L. DOWNEY CO., INC.** ("Tenant") for the benefit of **MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.** ("MLBFS").

Pursuant to one or more leases (as amended, extended or restated from time to time, and whether oral or written, the "Lease"), Tenant has leased from **B&J REAL ESTATE, L.L.C.** ("Landlord") all or a portion of the real property and improvements thereon commonly known as 2125 Gardner Road, Broadview, IL, 60153, and more fully described on Exhibit A attached hereto (the "Property"). Landlord has requested MLBFS to provide one or more credit facilities to or for the benefit of Landlord or an affiliated person or entity, which credit facilities will be secured by a mortgage upon the Property, and MLBFS has agreed to provide such credit facilities subject to, among other conditions, this Agreement being executed and delivered by Tenant.

Accordingly, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

(1) **Representations Regarding Lease.** Tenant represents and warrants to MLBFS that (a) Tenant is in continuous possession of the premises leased under the Lease; (b) Tenant is, and, to the knowledge of Tenant, the Landlord is in full compliance with the terms and provisions of the Lease; (c) no default or event of default under the Lease exists or would exist with the giving of notice by one party to the other and/or the passage of time; (d) Tenant has no offsets or defenses to Tenant's performance under the Lease; (e) Tenant does not have the option to purchase the Property or any part thereof; (f) no rentals are accrued and unpaid under the Lease or have been prepaid by Tenant; and (g) Tenant has not assigned, sublet or otherwise transferred or disposed of any interest in the Lease or the premises leased under the Lease.

(2) **Subordination of Lease.** Tenant agrees that all of Tenant's rights, title and interests in and under the Lease are and shall be subordinate to the lien and rights, title and interests of MLBFS in and to the Property, in the same manner as if the Lease had been entered into after the execution, delivery and recording of MLBFS' mortgage on the Property. Without limiting the foregoing, Tenant agrees that in connection with any foreclosure of MLBFS' mortgage on the Property, MLBFS shall have the right to terminate the Lease and Tenant's rights thereunder.

(3) **Attornment.** Notwithstanding the foregoing subordination, at the election of MLBFS at the time of any foreclosure of MLBFS' mortgage, the Lease may be made prior to the lien of MLBFS' mortgage. In such event, Tenant agrees that: (a) it will attorn to MLBFS or any purchaser of the Property at a foreclosure sale as its new landlord, and (b) the Lease will continue in full force and effect as a direct lease between the Tenant and MLBFS or such purchaser, for the remaining term and upon all other terms and conditions set forth in the Lease; provided, however, that in no event will MLBFS any purchaser of the Property at a foreclosure sale be: (i) liable for any act or omission of Landlord; (ii) subject to any offsets or deficiencies which the Tenant might be entitled to assert against Landlord; or (iii) bound by any payment of rent or additional rent made by the Tenant to Landlord for more than one month in advance of such foreclosure.

(4) **Amendment; Modifications.** This Agreement may not be amended or modified other than by a written instrument signed by both MLBFS and Tenant, or by their respective successors in interest.

(5) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of MLBFS and Tenant and their respective successors and assigns.

(6) **Warranty of Authority.** Each party signing this Agreement on behalf of Tenant personally warrants to MLBFS that he or she has the full right, power and authority to do so, and that by signing this Agreement is binding Tenant hereto.

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IN WITNESS WHEREOF, the authorized representatives of Tenant have executed this Agreement as of the day and year first set forth above.

B.L. DOWNEY CO., INC.

By: Bernard L. Downey Jean Ann Downey
 Signature (1) Signature (2)

Bernard L. Downey Jean Ann Downey
 Printed Name Printed Name

President Sec. / Treas.
 Title Title

Acknowledgment for Tenant

STATE OF Illinois }
 COUNTY OF Cook } S.S.

The Undersigned, a Notary Public in and for said County in the State aforesaid, **DOES HEREBY CERTIFY THAT** Bernard L. Downey and Jean Ann Downey, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as Bernard L. Downey and Jean Ann Downey, respectively, of **B.L. DOWNEY CO., INC.** and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered said instrument as their own free and voluntary act, and as the free and voluntary act of said entity for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 31 day of July AD, 2006

Ray Pascuzzi, Jr.
 NOTARY PUBLIC

My Commission Expires:
OFFICIAL SEAL
RAY PASCUZZI, JR.
 NOTARY PUBLIC, STATE OF ILLINOIS
 MY COMMISSION EXPIRES 4-30-2008

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EXHIBIT A

ATTACHED TO AND PART OF TENANT SUBORDINATION AGREEMENT MADE BY B.L. DOWNEY CO.,
INC. FOR THE BENEFIT OF MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.

Record Owner of Property: B&J REAL ESTATE, L.L.C.

Common Address of Property: 2125 GARDNER ROAD
Broadview, IL, 60153

Legal Description of Property:

THAT PART OF LOT 16 LYING WEST OF THE WEST RIGHT OF WAY OF INDIANA HARBOR BELT RAILROAD COMPANY (EXCEPT THAT PART TAKEN FOR ROOSEVELT ROAD) IN SCHOOL TRUSTEES' SUBDIVISION OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

15-16-420-004

15-16-420-005

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