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Doc#: 0704656015 Fee: \$40.50
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/15/2007 09:08 AM Pg: 1 of 9

JPMORGAN CHASE BANK, N.A.

AND

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

Dated: January 2, 2007

Location: 33 West Monroe Street
Chicago, Illinois

PINs: 17-16-213-020
17-16-213-021
17-16-213-017-8002

RECORD AND RETURN TO:
Herrick, Feinstein, LLP
2 Park Avenue
New York, New York 10016
Attention: Stephen D. Brodie, Esq.

Handwritten initials/signature

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (Lease)

THIS AGREEMENT made the 5th day of January, 2008, between JPMORGAN CHASE BANK, N.A. a national banking association, having an office at Real Estate Credit Support, 1166 Avenue of the Americas, 14th Floor, New York, New York 10036 (the "**Mortgagee**"), and Merrill Lynch, Pierce, Fenner & Smith Incorporated, a Delaware corporation, having an office at 1200 Merrill Lynch Drive, MC 0203, Pennington, New Jersey 08534, Attention: Vice President, Real Estate Planning & Transactions, with a copy to Merrill Lynch & Co. Inc., Corporate Law Department, 17th Floor, 222 Broadway, New York, New York 10038; Attention: Phyllis Safer, Esq. (the "**Tenant**");

W I T N E S S E T H:

WHEREAS, the Mortgagee is or is about to become the owner and holder of a certain Fee and Leasehold Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing made by 33 West Monroe Associates, LLC (the "**Landlord**") to the Mortgagee (together with any and all increases, renewals, modifications, restatements, spreaders, consolidations, replacements and extensions thereof, and to any future mortgage(s) held by the Mortgagee, the "**Mortgage**"), which Mortgage encumbers or is intended to encumber the premises located in Cook County, Illinois, known as 33 West Monroe Street, Chicago, Illinois (the "**Premises**");

WHEREAS, the Tenant is the holder of a leasehold estate in a portion of the Premises under and pursuant to the provisions of a certain lease described on Exhibit A annexed hereto (the "**Lease**"); and

WHEREAS the Tenant has agreed to subordinate the Lease to the Mortgage and to the lien thereof 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, in consideration of Ten (\$10) Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, the Mortgagee and the Tenant hereby covenant and agree as follows:

1. The Tenant agrees that the Lease and all of the terms, covenants and provisions thereof and all rights, remedies and options of the Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the Mortgage and all of the terms, covenants and provisions thereof and to the lien thereof and to any and all sums secured thereby, 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. The Mortgagee agrees that if any action or proceeding is commenced by the Mortgagee to foreclose the Mortgage or to sell the Premises, the Tenant shall not be named as a party in any such action nor shall the Tenant be named a party in connection with any sale of the Premises, provided that at the time of the commencement of any such action or proceeding or at

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the time of any such sale (i) the term of the Lease shall have commenced pursuant to the provisions thereof, (ii) the Lease shall be in full force and effect, and (iii) the Tenant shall not be in default (beyond any applicable notice and cure period in respect thereof) under any of the terms, covenants or conditions of the Lease or of this Agreement on the part of the Tenant to be observed or performed thereunder or hereunder, unless applicable law requires the Tenant to be made a party thereto as a condition to proceeding against the Landlord or protecting such rights and remedies. In the latter case, the Mortgagee may join the Tenant as a defendant in such action only for such purposes and not to terminate the Lease.

3. The Tenant agrees that if the Mortgagee or any successors in interest to the Mortgagee shall become the owner of the Premises by reason of the foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise, the Lease shall not be terminated or affected thereby but shall continue in full force and effect as a direct lease between the Mortgagee and the Tenant upon all of the terms, covenants and conditions set forth in the Lease and in that event the Tenant agrees to attorn to the Mortgagee and the Mortgagee agrees to accept such attornment, provided, however, that the Mortgagee shall not be (i) liable for any obligation, act or omission of the Landlord, but only to the extent the same shall have accrued prior to the date of foreclosure, or (ii) subject to any offsets, claims or counterclaims which shall have accrued to the Tenant against the Landlord prior to the date on which the Mortgagee or its successor in interest shall become the owner of the Premises, or (iii) liable for any security deposit or other monies not actually received by the Mortgagee.

4. The Tenant shall not, without the prior written consent of the Mortgagee (i) enter into any agreement amending, modifying or terminating the Lease, (ii) prepay any of the rents, additional rents or other sums due under the Lease for more than one (1) month in advance of the due date thereof, (iii) voluntarily surrender the premises demised under the Lease or terminate the Lease without cause or shorten the term thereof except as permitted under the Lease in connection with a casualty or condemnation, or (iv), except to the extent Tenant has the right to do so without Landlord's consent, assign the Lease or sublet the premises demised under the Lease or any part thereof; and any such amendment, modification, termination, prepayment, voluntary surrender, assignment or subletting, without the prior written consent of the Mortgagee (to the extent required pursuant to this paragraph) shall not be binding on the Mortgagee.

5. The Tenant shall notify the Mortgagee of any default by the Landlord under the Lease or any other circumstance which would entitle the Tenant to cancel or terminate the Lease or abate the rents, additional rents or other sums payable thereunder, and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation, termination or abatement thereof shall be effective unless the Mortgagee shall have received notice of the default or other circumstance giving rise to such cancellation, termination or abatement and shall have failed within sixty (60) days after receipt of such notice to cure such default or remedy such circumstance, or if such default cannot be cured within sixty (60) days, shall have failed to give notice within thirty (30) days of Mortgagee's election to cure or within sixty (60) days after receipt of such notice to commence and to thereafter diligently pursue any action necessary to cure such default or remedy such circumstance, as the case may be.

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6. Anything herein or in the Lease to the contrary notwithstanding, in the event that the Mortgagee shall acquire title to the Premises, or shall otherwise become liable for any obligations of the Landlord under the Lease, the Mortgagee shall have no obligation, nor incur any liability, beyond the Mortgagee's then interest, if any, in the Premises and the Tenant shall look exclusively to such interest of the Mortgagee, if any, in the Premises for the payment and discharge of any obligations imposed upon the Mortgagee hereunder or under the Lease and the Mortgagee is hereby released or relieved of any other liability hereunder and under the Lease. The Tenant agrees that with respect to any money judgment which may be obtained or secured by the Tenant against the Mortgagee, the Tenant shall look solely to the estate or interest owned by the Mortgagee in the Premises and the Tenant will not collect or attempt to collect any such judgment out of any other assets of the Mortgagee.

7. Any notice, request, demand, statement, authorization, approval or consent made hereunder shall be in writing and shall be sent by Federal Express, or other reputable courier service, or by postage pre-paid registered or certified mail, return receipt requested, and shall be deemed given when received or refused (as indicated on the receipt) and addressed as follows:

If to the Mortgagee: JPMorgan Chase Bank, N.A.
1166 Avenue of the Americas, 14th Floor
New York, New York 10036
Attention: 33 West Monroe, Chicago, IL – 33 West
Monroe Associates, LLC

With a copy to: JPMorgan Chase Bank, N.A.
Legal Department
270 Park Avenue, 39th Floor
New York, New York 10017
Attention: Chase Real Estate Counsel

With a copy to: Herrick, Feinstein, LLP
2 Park Avenue
New York, New York 10016
Attn: Stephen D. Brodie, Esq.

If to the Tenant: 1200 Merrill Lynch Drive, MC 0203
Pennington, New Jersey 08534
Attention: Vice President, Real Estate Planning &
Transactions

Merrill Lynch & Co., Inc., Corporate Law Department,
17th Floor, 222 Broadway
New York, New York 10038
Attention: Phyllis Safer, Esq.

it being understood and agreed that each party will use reasonable efforts to send copies of any notices to the addresses marked "With a copy to" hereinabove set forth; provided, however, that

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failure to deliver such copy or copies shall have no consequence whatsoever to the effectiveness of any notice made to the Tenant or the Mortgagee. Each party may designate a change of address by notice given, as hereinabove provided, to the other party, at least fifteen (15) days prior to the date such change of address is to become effective.

8. This Agreement shall be binding upon and inure to the benefit of the Mortgagee and the Tenant and their respective successors and assigns.

9. The term "**Mortgagee**" as used herein shall include the successors and assigns of the Mortgagee and any person, party or entity which shall become the owner of the Premises by reason of a foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise. The term "**Landlord**" as used herein shall mean and include the present landlord under the Lease and such landlord's predecessors and successors in interest under the Lease. The term "**Premises**" as used herein shall mean the Premises, the improvements now or hereafter located thereon and the estates therein encumbered by the Mortgage.

10. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

11. This Agreement shall be governed by and construed under the laws of the State in which the Premises are located.

12. This Agreement may be executed in separate counterparts which, together, shall constitute one and the same fully executed Agreement.

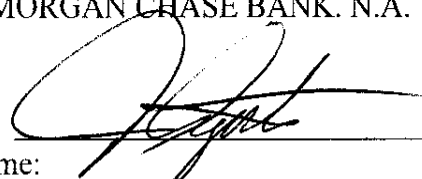
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IN WITNESS WHEREOF, the Mortgagee and the Tenant have duly executed this Agreement as of the date first above written.

MORTGAGEE:

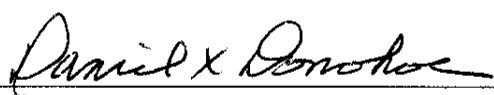
JPMORGAN CHASE BANK, N.A.

By: 
Name: _____
Title: **PETER J. D'AGOSTINO**

SENIOR VICE PRESIDENT
J.P. MORGAN CHASE BANK, N.A.
4 CHASE METROTECH BANK - 22ND FL.
BROOKLYN, NY 11245

TENANT:

MERRILL LYNCH, PIERCE, FENNER &
SMITH INCORPORATED

By: 
Name: _____
Title: **Daniel X. Donohoe**
Director

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EXHIBIT A

The Premises

(Description of Fee Premises)

THE EAST ½ OF LOT 2 IN BLOCK 141 IN SCHOOL SECTION ADDITION TO CHICAGO; ALSO ALL THAT PART OF LOT 3 IN SAID BLOCK 141 IN SCHOOL SECTION ADDITION TO CHICAGO, WHICH LIES WEST OF A LINE DRAWN NORTH AND SOUTH THROUGH SAID LOT 3, PARALLEL WITH THE WEST LINE OF STATE STREET, A DISTANCE OF 130 FEET THEREFROM IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN 17-16-213-020-0000

PIN 17-16-213-021-0000

(Description of Leased Premises)

THE WEST ¾ OF LOT 2 AND THAT PART OF LOT 1, LYING EAST OF THE EAST LINE OF DEARBORN STREET IN BLOCK 141 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

The name of the record owner of the above described land is as follows:
The Baptist Theological Union Located at Chicago.

PIN 17-16-213-017-8002

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DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:

Herrick, Feinstein, LLP
2 Park Avenue
New York, New York 10016
Attention: Stephen D. Brodie, Esq.

Property of Cook County Clerk's Office