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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/17/2014 01:29 PM Pg: 1 of 11

This document prepared by
and after recording return to:

Ginsberg Jacobs, LLC
300 South Wacker Drive
Suite 2750
Chicago, Illinois 60606
Attn: David A. Lapins, Esq.



Doc#: Fee: \$2.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/17/2014 01:29 PM Pg: 0

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12-14

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "Agreement") dated this 20th day of November, 2014, is made by and among **DERMATOLOGY AND AESTHETICS OF WICKER PARK, LLC**, an Illinois limited liability company ("Tenant"), **ELSTON ADVENTURES, LLC**, an Illinois limited liability company ("Landlord"), and **THE PRIVATEBANK AND TRUST COMPANY**, an Illinois state chartered bank ("Lender").

WHEREAS, Lender has agreed to extend to Landlord certain loans (collectively, the "Loans"), which Loans are evidenced by: (i) a certain Promissory Note A made by Landlord and payable to Lender ("Note A"), and (ii) a certain Promissory Note B made by Landlord and payable to Lender ("Note B"; Note A and Note B are herein referred to as, collectively, the "Notes"). The Loans are secured by, among other things, a certain Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents made by Landlord to and for the benefit of Lender (herein, as may from time to time be extended, amended, restated or supplemented, the "Mortgage"), encumbering, among other property, the land (the "Land") described in Exhibit "A" which is attached hereto and incorporated herein by reference, and the improvements thereon ("Improvements") (such Land and Improvements being herein together called the "Property");

WHEREAS, Tenant is the tenant under a Lease Agreement from Landlord dated September 5, 2014, as amended by that certain First Amendment to Lease Agreement dated November 14, 2014 (herein, as may from time to time be extended, amended, restated or supplemented, the "Lease"), covering a portion of the Property (said portion being herein referred to as the "Premises"); and

WHEREAS, the term "Landlord" as used herein means the present landlord under the Lease or, if the landlord's interest is transferred in any manner, the successor(s) or assign(s) occupying the position of landlord under the Lease at the time in question.

Handwritten signature/initials

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NOW, THEREFORE, in consideration of the mutual agreements herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Subordination. Tenant agrees and covenants, subject to the terms of this Agreement, that the Lease and the rights of Tenant thereunder, all of Tenant's right, title and interest in and to the property covered by the Lease, and any lease thereafter executed by Tenant covering any part of the Property, are and shall be subject, subordinate and inferior in all respects to (a) the Mortgage and the rights of Lender thereunder, and all right, title and interest of Lender in the Property, and (b) all other security documents now or hereafter securing payment of any indebtedness of the Landlord (or any prior landlord) to Lender which cover or affect all or any portion of the Property (collectively, the "Security Documents"), provided, however, that no such Security Documents diminish Tenant's rights or increase Tenant's obligations under the Lease or this Agreement, including without limitation the rights set forth in Section 2 hereof. This Agreement is not intended and shall not be construed to subordinate the Lease to any mortgage, deed of trust or other security document other than those referred to in the immediately preceding sentence, securing the indebtedness owing to Lender.

2. Non-Disturbance. Lender agrees that so long as the Lease is in full force and effect and Tenant is not in default in the payment of rent, additional rent or other payments due under the Lease or in the performance of any of the other terms, covenants or conditions of the Lease on Tenant's part to be performed (beyond the period, if any, specified in the Lease within which Tenant may cure such default),

(a) Tenant's possession of the Premises under the Lease shall not be disturbed, affected, or impaired, nor will the Lease or the term thereof, including any extensions or renewals terms if Tenant elects or has elected to exercise its options to extend the term ("Lease Term") be terminated or otherwise affected in any manner, including without limitation, by:

(i) any suit, action or proceeding brought upon the Mortgage, note, or other obligation secured thereby, or for the foreclosure of the Mortgage or the exercise or enforcement of any rights of Lender under the Mortgage, any other documents, or as a matter of law or equity, including, without limitation, bankruptcy law, or by any judicial sale, execution, or other sale or conveyance of the Premises or the Property by Landlord or its successors in interest or title after foreclosure, or any deed given to Lender, whether in lieu of foreclosure or otherwise (all of the foregoing, collectively, "Sale or Proceeding"); or

(ii) any default under the Mortgage, note, or other obligation secured thereby;

(b) all condemnation awards and insurance proceeds paid or payable with respect to the Premises or any other part of the Property shall be applied and paid in the manner set forth in the Lease;

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(c) Lender will not join Tenant as a party defendant for the purpose of terminating Tenant's interest and estate under the Lease in any proceeding for foreclosure of the Mortgage.

3. Attornment.

(a) Tenant covenants and agrees that in the event of the foreclosure of the Mortgage by reason of any Sale or Proceeding (the purchaser at any such Sale or Proceeding, including Lender if it is such purchaser or transferee, being herein called the "New Owner"), Tenant shall attorn to the New Owner as Tenant's new landlord, and agrees that the Lease shall continue in full force and effect as a direct lease between Tenant and New Owner upon all of the terms, covenants, conditions and agreements set forth in the Lease and this Agreement, except for provisions which are impossible for New Owner to perform; provided, however, that in no event shall the New Owner be:

(i) liable for any act, omission, default, misrepresentation, or breach of warranty, of any previous landlord (including Landlord) or obligations accruing prior to New Owner's actual ownership of the Property, provided, however, that (a) Lender will be liable for any act or omission which continues from and after the date upon which Lender becomes the New Owner; and (b) upon becoming the New Owner, Lender shall perform any maintenance, repair or restoration work to the Premises or the Property required (but not performed by) any previous landlord under the Lease; in no event, however, will Lender have any liability under this subparagraph (i) except for failure to perform such obligations after Lender becomes the New Owner of the Property or the Premises;

(ii) subject to any offset, defense, claim or counterclaim which Tenant might be entitled to assert against any previous landlord (including Landlord), except to the extent that (a) such offsets are expressly provided for under the Lease and Lender has received notice thereof as provided in Section 7, below, whether or not Lender elected to cure or remedy the act or omission or (b) such offsets or defenses were deducted by Tenant prior to the date upon which Lender became the New Owner;

(iii) bound by any payment of rent, additional rent or other payments, made by Tenant to any previous landlord (including Landlord), except as required by the terms of the Lease;

(iv) bound by any amendment or modification of the Lease hereafter made to the extent such amendment or modification materially decreases the rent payable by Tenant or materially increases Landlord's obligations, without the written consent of Lender, provided, however, that notwithstanding the foregoing, no consent of Lender will be required for any amendment or modification provided for in the Lease (such as, for example, an amendment to the Lease confirming the measurement of the Premises); or

(v) liable for any deposit that Tenant may have given to any previous landlord (including Landlord) which has not been transferred to New Owner.

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(b) Notwithstanding anything to the contrary herein, Tenant will be under no obligation to pay rent to any New Owner until Tenant receives written notice from such New Owner that the New Owner has succeeded to the interest of "landlord" under the Lease.

(c) The provisions of this Agreement regarding attornment by Tenant shall be self-operative and effective without the necessity of execution of any new lease or other document on the part of any party hereto or the respective heirs, legal representatives, successors or assigns of any such party. Tenant agrees, however, to execute and deliver upon the request of New Owner, any reasonable instrument or certificate which in the reasonable judgment of New Owner may be necessary or appropriate to evidence such attornment, including a new lease of the Premises on the same terms and conditions as set forth in the Lease for the unexpired term of the Lease.

4. Estoppel Certificate. Tenant agrees to execute and deliver from time to time, upon the request of Landlord, Lender, or of any holder(s) of any of the indebtedness or obligations secured by the Mortgage, a certificate regarding the status of the Lease, consisting of statements, if true (or if not, specifying why not), (a) that the Lease is in full force and effect, (b) the date through which rentals have been paid, (c) the date of the commencement of the term of the Lease, (d) the nature of any amendments or modifications of the Lease, (e) to the best of Tenant's knowledge no default, or state of facts which with the passage of time or notice (or both) would constitute a default, exists under the Lease, (f) to the best of Tenant's knowledge, no setoffs, recoupments, estoppels, claims or counterclaims exist against Landlord, and (g) such other matters as may be reasonably requested.

5. Acknowledgment and Agreement by Tenant. Tenant acknowledges and agrees as follows:

(a) Lender, in making any disbursements of any loan proceeds to Landlord, is not under any obligation or duty to oversee or direct the application of the proceeds of such disbursements, and such proceeds may be used by Landlord for purposes other than improvement of the Property.

(b) From and after the date hereof, in the event of any act or omission by Landlord which would give Tenant the right, either immediately or after the lapse of time, to terminate the Lease or to claim a partial or total eviction, Tenant will not exercise any such right (i) until it has given written notice of such act or omission to the Lender; and (ii) until the same period of time as is given to Landlord under the Lease to cure such act or omission shall have elapsed following such giving of notice to Lender, but, in the case of any default which is not curable by the payment of an uncontested monetary amount, thirty (30) days after receipt of such notice, and so long as Lender commences curing the underlying default within such initial thirty (30) day period or commences filing suit in order to obtain possession of the Property during such thirty (30) day period, such longer period of time as may be necessary to cure or remedy such default, act, or omission including such period of time necessary to obtain possession of the Property and thereafter cure such default, act, or omission, during which period of time Lender shall be permitted to cure or remedy such default, act or omission; provided, however, that Lender

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shall not have any duty or obligation to cure or remedy any breach or default. It is specifically agreed that Tenant shall not, as to Lender, require cure of any such default which is personal to Landlord, and therefore not susceptible to cure by Lender.

(c) Tenant acknowledges that the Mortgage contains or will contain an assignment of rents and leases by which Landlord has assigned, or will assign, its interest in the rents and payments due under the Lease to Lender as security for repayment of the Loan. In the event that Lender notifies Tenant of a default under the Mortgage, the Notes, or Security Documents and demands that Tenant pay its rent and all other sums due under the Lease directly to Lender, Tenant shall honor such demand and pay the full amount of its rent and all other sums due under the Lease directly to Lender, without offset, or as otherwise required pursuant to such notice beginning with the payment next due after such notice of default, without inquiry as to whether a default actually exists under the Mortgage, Security Documents or otherwise in connection with the Notes, and notwithstanding any contrary instructions of or demands from Landlord.

(d) Tenant has no right or option of any nature whatsoever, whether pursuant to the Lease or otherwise, to purchase the Premises or the Property, or any portion thereof or any interest therein, and to the extent that Tenant has had, or hereafter acquires, any such right or option, the same is hereby acknowledged to be subject and subordinate to the Mortgage.

(e) This Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement and Tenant waives any requirement to the contrary in the Lease.

(f) Lender and any New Owner shall have no obligation nor incur any liability with respect to any warranties of any nature whatsoever, whether pursuant to the Lease or otherwise, including, without limitation, any warranties respecting use, compliance with zoning, Landlord's title, Landlord's authority, habitability, fitness for purpose or possession provided that to the extent that the breach of any such warranty shall give the Tenant the right to terminate the Lease pursuant to the terms of the Lease, Tenant shall retain such right to terminate pursuant to the terms of the Lease.

(g) In the event that Lender or any New Owner shall acquire title to the Premises or the Property, Lender or such New Owner shall have no obligation, nor incur any liability, beyond Lender's or New Owner's then equity interest, if any, in the Property or the Premises, including: (w) the rents and profits thereof; (x) the proceeds of any insurance policy payable or received by Lender or New Owner; (y) condemnation awards payable to or collected by Lender or New Owner; and (z) sales, financing, or similar proceeds payable to or received by Lender or New Owner, and Tenant shall look exclusively to such equity interest of Lender or New Owner, if any, for the payment and discharge of any obligations imposed upon Lender or New Owner hereunder or under the Lease or for recovery of any judgment from Lender, or New Owner, and in no event shall Lender, New Owner, nor any of their respective officers, directors, shareholders, agents, representatives, servants, employees or partners ever be personally liable for such

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judgment. Notwithstanding the foregoing, nothing in this provision limits any rights that Tenant may have to obtain injunctive relief against Lender or New Owner.

6. Acknowledgment and Agreement by Landlord. Landlord, as landlord under the Lease and grantor under the Mortgage, acknowledges and agrees for itself and its heirs, representatives, successors and assigns, that: (a) this Agreement does not constitute a waiver by Lender of any of its rights under the Mortgage or any of the other Security Documents, or in any way release Landlord from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Mortgage and the other Security Documents; (b) the provisions of the Mortgage and the other Security Documents remain in full force and effect and must be complied with by Landlord; and (c) Tenant is hereby authorized to pay its rent and all other sums due under the Lease directly to Lender upon receipt of a notice as set forth in Section 5(c) above from Lender and that Tenant is not obligated to inquire as to whether a default actually exists under the Mortgage or any of the other Security Documents. Landlord hereby releases and discharges Tenant of and from any liability to Landlord resulting from Tenant's payment to Lender in accordance with this Agreement. Landlord represents and warrants to Lender that a true and complete copy of the Lease has been delivered by Landlord to Lender.

7. Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder shall be in writing and shall be deemed sufficiently given or furnished if delivered by personal delivery, by expedited delivery service with proof of delivery, or by registered or certified United States mail, postage prepaid, at the addresses specified at the end of this Agreement (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt by the parties hereto other than the particular party whose address is to be changed. This Section 7 shall not be construed in any way to affect or impair any waiver of notice or demand provided in this Agreement or in the Lease or in any document evidencing, securing or pertaining to the loan secured by the Mortgage or to require giving of notice or demand to or upon any person in any situation or for any reason.

8. Miscellaneous.

(a) Nothing contained in this Agreement shall be construed to derogate from or in any way impair, or affect the lien, security interest or provisions of the Mortgage or the other Security Documents.

(b) This Agreement shall inure to the benefit of the parties hereto, their respective successors and permitted assigns, and any New Owner, and its heirs, personal representatives, successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of Lender, all obligations and liabilities of the assigning Lender under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Lender's interest is assigned or transferred.

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(c) THIS AGREEMENT AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS AND APPLICABLE UNITED STATES FEDERAL LAW EXCEPT ONLY TO THE EXTENT, IF ANY, THAT THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED NECESSARILY CONTROL.

(d) The words “herein”, “hereof”, “hereunder” and other similar compounds of the word “here” as used in this Agreement refer to this entire Agreement and not to any particular section or provision.

(e) This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

(f) If any provision of the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not apply to or affect any other provision hereof, but this Agreement shall be construed as if such invalidity, illegality, or unenforceability did not exist.

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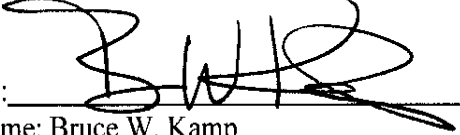
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and sealed as of the date first above written.

ADDRESS OF MORTGAGEE:

120 South LaSalle Street
Chicago, Illinois 60602
Attention: Bruce W. Kamp

MORTGAGEE:

THE PRIVATEBANK AND TRUST COMPANY,
an Illinois state chartered bank

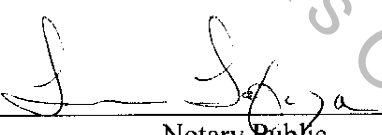
By: 

Name: Bruce W. Kamp
Title: Managing Director

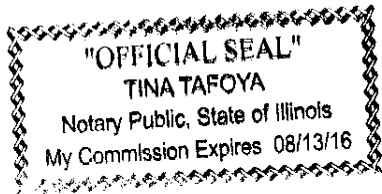
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Bruce W. Kamp, the Managing Director of THE PRIVATEBANK AND TRUST COMPANY, an Illinois state chartered bank who is 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 the said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 15 day of October, 2014.



Notary Public



My Commission Expires:

8-13-16

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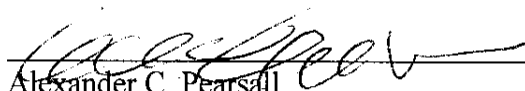
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and sealed as of the date first above written.

ADDRESS OF LANDLORD:

1765 N. Elston Ave., Suite 226
Chicago, Illinois 60642
Attention: Alexander C. Pearsall

LANDLORD:

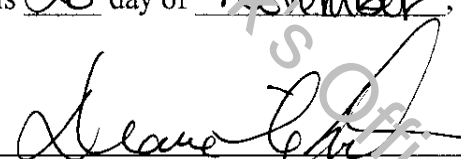
ELSTON ADVENTURES LLC, an Illinois limited liability company

By: 
Name: Alexander C. Pearsall
Title: Manager

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Alexander C. Pearsall, the Manager of Elston Adventures LLC, an Illinois limited liability company, who is 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 the said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20 day of November, 2014.



Notary Public

My Commission Expires:



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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and sealed as of the date first above written.

ADDRESS OF TENANT:

TENANT:

1765 N. Elston Ave., Unit 110-116
Chicago, Illinois 60642
Attention: Suzanne Loughrey

DERMATOLOGY AND AESTHETICS OF WICKER
PARK, LLC, an Illinois limited liability company

By: Meyer
Name: Meyer Horn, d/d
Title: president

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

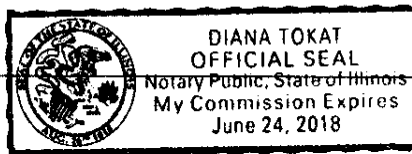
The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Meyer Horn, the President of DERMATOLOGY AND AESTHETICS OF WICKER PARK, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20 day of November, 2014.

[Signature]

Notary Public

My Commission Expires:



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EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

ELSTON PROPERTY:

UNIT 101 IN THE APCA COMMERCIAL CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: PARTS OF BLOCK 17 IN SHEFFIELD'S ADDITION TO CHICAGO, PARTS OF HIRSCH AND STEIN'S SUBDIVISION OF BLOCK 17 IN SHEFFIELD'S ADDITION TO CHICAGO TOGETHER WITH CERTAIN VACATED STREETS AND ALLEYS, ALL IN THE SOUTHWEST $\frac{1}{4}$ OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; WHICH SURVEY IS ATTACHED AS EXHIBIT "D" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER 1206031049 TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, ALL IN COOK COUNTY, ILLINOIS.

PIN: 14-32-302-016-1002

PROPERTY ADDRESS: 1765 NORTH ELSTON AVE., CHICAGO, ILLINOIS 60642

ADA PROPERTY:

LOT 39 (EXCEPT THE SOUTHEASTERLY 25.00 FEET THEREOF) AND LOT 40 IN THE SUBDIVISION OF BLOCK 3 OF BLOCK 18 IN SHEFFIELDS ADDITION TO CHICAGO IN SECTION 32, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS: 14-32-316-021-0000; 14-32-316-022-0000; 14-32-316-023-0000

PROPERTY ADDRESSES: 1668 NORTH ADA ST., CHICAGO, IL