

UNOFFICIAL COPY

This document was prepared by,
and after recording, return to:

Eugene S. Kraus, Esq.
Scott & Kraus, LLC
150 South Wacker Drive, Suite 2900
Chicago, IL 60606

Common address:
895 American Lane, Schaumburg, IL
60173

PINs: 07-14-200-044-0000;
07-14-200-043-0000



Doc# 1631219065 Fee \$60.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 11/07/2016 12:09 PM PG: 1 OF 12

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of NOVEMBER 7, 2016, by and among Inland Bank and Trust, an Illinois state chartered banking institution (the "Lender"), having a place of business at 2805 Butterfield Rd Suite 200, Oak Brook, IL 60523, PC Connection, Inc., a Delaware corporation (the "Tenant"), having its principal place of business at 730 Milford Rd, Merrimack, NH 03054, and 895 American Lane, LLC, an Illinois limited liability company (the "Landlord"), having its principal offices at 236 Waukegan, Glenview, IL 60025.

BACKGROUND

A. The Lender is the mortgagee under the Mortgage dated October 5, 2006 and recorded in the office of the Cook County Recorder of Deeds (the "Recorder") on October 18, 2006 as document no. 0629133120, as amended by that certain Modification of Mortgage dated October 17, 2007, recorded with the Recorder on November 5, 2007 as document no. 0730933073 (the "Mortgage"), which Mortgage encumbers the Real Estate (as hereinafter defined).

B. The Tenant has entered into an Industrial Real Estate Lease (together with all amendments and modifications thereof, hereinafter being referred to as the "Lease") dated October 12, 2016 with the Landlord, pursuant to which the Tenant has leased certain premises (the "Leased Premises") on the parcel of land ("Real Estate") legally described on Exhibit A attached hereto and made a part hereof.

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

UNOFFICIAL COPY

1. The Tenant represents and warrants to the Lender that the Lease constitutes the entire agreement between the Tenant and the Landlord with respect to the Leased Premises and there are no other agreements, written or verbal, governing the tenancy of the Tenant with respect to the Leased Premises, other than the Early Occupancy Agreement between the Landlord and the Tenant dated October 3, 2016.

2. The Tenant covenants with the Lender that the Lease shall be subject and subordinate to the lien and all other provisions of the Mortgage and to all modifications and extensions thereof, to the full extent of all principal, interest and all other amounts now or hereafter secured thereby and with the same force and effect as if the Mortgage had been executed and delivered prior to the execution and delivery of the Lease. Without limiting the generality of the foregoing subordination provision, the Tenant hereby agrees that any of its right, title and interest in and to insurance proceeds and condemnation awards (or other similar awards arising from eminent domain proceedings) with respect to damage to or the condemnation (or similar taking) of any of the Real Estate, shall be subject and subordinate to the Lender's right, title and interest in and to such proceeds and awards.

3. The Tenant acknowledges that the Landlord has collaterally assigned to the Lender any and all leases affecting the Real Estate, including the Lease, and the rents and other amounts, including, without limitation, lease termination fees, if any, due and payable under such leases. In connection therewith, the Tenant agrees that, upon receipt of a notice of a default by the Landlord under such assignment and a demand by the Lender for direct payment to the Lender of the rents due under the Lease, the Tenant will honor such demand and make all subsequent rent payments directly to the Lender. The Tenant further agrees that any Lease termination fees payable under the Lease shall be paid jointly to the Landlord and the Lender.

4. The Lender agrees that so long as the Tenant is not in default under the Lease:

(a) The Tenant shall not be named or joined as a party in any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage (unless the Tenant is a necessary party under applicable law); and

(b) The possession by the Tenant of the Leased Premises and the Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease or the term thereof be terminated or otherwise materially adversely affected by (i) any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage, or by any judicial sale or execution or other sale of the Leased Premises, or any deed given in lieu of foreclosure, or (ii) any default under the Mortgage.

5. Prior to pursuing any remedy available to the Tenant under the Lease, at law or in equity as a result of any failure of the Landlord to perform or observe any covenant, condition, provision or obligation to be performed or observed by the

UNOFFICIAL COPY

Landlord under the Lease (any such failure being hereinafter referred to as a "Landlord's Default"), the Tenant shall: (a) provide the Lender with a notice of the Landlord's Default, specifying the nature thereof, the section of the Lease under which such Landlord's Default arose, and the remedy which the Tenant will elect under the terms of the Lease or otherwise, and (b) allow the Lender not less than fifteen (15) days following receipt of notice of the Landlord's Default to cure the same (or immediately in the event of an emergency or other event which materially adversely impacts Tenant's occupancy of the Leased Premises); provided, however, that, if such Landlord's Default is not readily curable within such fifteen (15) day period, the Tenant shall give the Lender such additional time as the Lender may reasonably need to obtain possession and control of the Real Estate and to cure such Landlord's Default so long as the Lender is diligently pursuing a cure. The Tenant shall not pursue any remedy available to it as a result of any Landlord's Default unless the Lender fails to cure same within the time period specified above. For purposes of this Section 6, a Landlord's Default shall not be deemed to have occurred until all grace and/or cure periods applicable thereto under the Lease have lapsed without the Landlord having effectuated a cure thereof.

6. If the Lender or any future holder of the Mortgage shall become the owner of the Real Estate by reason of foreclosure of the Mortgage or otherwise, or if the Real Estate shall be sold as a result of any action or proceeding to foreclose the Mortgage or transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between the Tenant and the new owner of the Real Estate as "landlord" upon all the same terms, covenants and provisions contained in the Lease (subject to the exclusions set forth in subsection (b) below), and in such event:

(a) The Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if the Tenant elects or has elected to exercise its options to extend the term), and the Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "landlord" under the Lease without any additional documentation to effect such attornment (provided, however, if applicable law shall require additional documentation at the time the Lender exercises its remedies then the Tenant shall execute such additional documents evidencing such attornment as may be required by applicable law);

(b) Such new owner shall be bound to the Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if the Tenant elects or has elected to exercise its options to extend the term); provided, however, that such new owner shall not be:

(i) liable for any act or omission of any prior landlord (including the Landlord), except for any default of any prior landlord (including the Landlord) under the Lease that continues after Lender or a third party takes title to the Real Estate. Such new owner shall be entitled to the cure period as provided in Section 5 hereof, and if the default of the prior landlord (including the Landlord) is

UNOFFICIAL COPY

not cured within such cure period, the new owner shall be in default under the Lease and Tenant shall be entitled to all rights and remedies afforded to it thereunder;

(ii) subject to any offsets or defenses which the Tenant has against any prior landlord (including the Landlord) unless the Tenant shall have provided the Lender with (A) notice of the Landlord's Default that gave rise to such offset or defense, and (B) the opportunity to cure the same, all in accordance with the terms of Section 6 above;

(iii) bound by any base rent, percentage rent, additional rent or any other amounts payable under the Lease which the Tenant might have paid in advance for more than the current month to any prior landlord (including the Landlord);

(iv) liable to refund or otherwise account to the Tenant for any security deposit not actually paid over to such new owner by the Landlord;

(v) bound by any amendment or modification of the Lease made without the Lender's consent;

(vi) bound by, or liable for any breach of, any representation or warranty or indemnity agreement contained in the Lease or otherwise made by any prior landlord (including the Landlord); or

(vii) personally liable or obligated to perform any such term, covenant or provision, such new owner's liability being limited in all cases to its interest in the Real Estate.

7. Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Lender: Inland Bank and Trust
2805 Butterfield Road Suite 200
Oak Brook, IL 60523
Attention: Peter Stickler

With a copy to: Scott & Kraus, LLC
150 South Wacker Drive Suite 2900
Chicago, IL 60606
Attention: Eugene S. Kraus, Esq.

UNOFFICIAL COPY

To Landlord: 895 American Lane, LLC
236 Waukegan
Glenview, IL 60025
Attention: George Bahramis

With a copy to: Locke Lord LLP
111 South Wacker Drive Suite 4100
Chicago, IL 60606
Attention: David J. Fischer, Esq.

To Tenant: PC Connection, Inc.
730 Milford Road
Merrimack, NH 03054
Attention: Timothy McGrath

With a copy to: Fuchs & Roselli, Ltd.
440 West Randolph Street, Suite 500
Chicago, IL 60606
Attention: Lauren S. Kavanaugh, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

8. The Tenant acknowledges and agrees that the Lender will be relying on the representations, warranties, covenants and agreements of the Tenant contained herein and that any material default by the Tenant hereunder shall permit the Lender, at its option, to exercise any and all of its rights and remedies at law and in equity against the Tenant and to join the Tenant in a foreclosure action thereby terminating the Tenant's right, title and interest in and to the Leased Premises.

9. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns and any nominees of the Lender, all of whom are entitled to rely upon the provisions hereof. This Agreement shall be governed by the laws of the State of Illinois.

10. This Agreement may be executed in multiple counterparts and all of such counterparts together shall constitute one and the same Agreement.

11. The Lender is hereby authorized to rely upon and accept as an original this Agreement, any Loan Documents or other communication which is sent to the Lender by facsimile, telegraphic or other electronic transmission (each, a "Communication") which the Lender in good faith believes has been signed by Tenant

UNOFFICIAL COPY

and Landlord and has been delivered to the Lender by a properly authorized representative of the Tenant and Landlord, whether or not that is in fact the case. Notwithstanding the foregoing, the Lender shall not be obligated to accept any such Communication as an original and may in any instance require that an original document be submitted to the Lender in lieu of, or in addition to, any such Communication.

[SIGNATURE PAGE FOLLOWS]

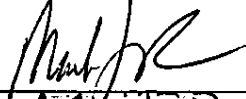
Property of Cook County Clerk's Office

UNOFFICIAL COPY

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

LENDER:

Inland Bank and Trust, an Illinois state chartered banking institution

By: 
Name: Mark Reid
Its: Vice President


TENANT:

PC Connection, Inc., a Delaware corporation

By: 
Name: Timothy McGrath
Its: Chief Executive Officer

LANDLORD:

895 American Lane, LLC, an Illinois limited liability company

By: 
Name: George J. Banramis
Its: Manager

UNOFFICIAL COPY

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

LENDER:

Inland Bank and Trust, an Illinois state chartered banking institution

By: _____
Name: Peter Stickler
Its: President


TENANT:

PC Connection, Inc., a Delaware corporation

By: 
Name: Timothy McGrath
Its: Chief Executive Officer

LANDLORD:

895 American Lane, LLC, an Illinois limited liability company

By: 
Name: George J. Bahramis
Its: Manager

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that Peter Stickler, personally known to me to be the President of Inland Bank and Trust, an Illinois state chartered banking institution, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such officer of such company, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of such company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this _____, 2016.

Notary Public

STATE OF New Hampshire)
) SS
COUNTY OF Hillsborough)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that Timothy McGrath, personally known to me to be the Chief Executive Officer of PC Connection, Inc., a Delaware corporation, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such officer of such company, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of such company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this 27th day of Oct, 2016.

Dolores R. Collins
Notary Public



UNOFFICIAL COPY

STATE OF ILLINOIS)
)
 COUNTY OF Cook) SS

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that George J. Bahramis, personally known to me to be the Manager of 895 American Lane, LLC, an Illinois limited liability company, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such officer of such company, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of such company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this 1st day of November, 2016.



Eugenia Metaxas
 Notary Public

UNOFFICIAL COPY

EXHIBIT A LEGAL DESCRIPTION

PARCEL 1:

LOT 1 IN WOODFIELD LAKE OFFICE CAMPUS UNIT 1 SUBDIVISION BEING A SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

PARCEL 2:

EASEMENT APPURTENANT FOR THE BENEFIT OF PARCELS 1 AND 3 FOR INGRESS AND EGRESS AS CREATED BY GRANT OF EASEMENT MADE BY AND BETWEEN LA SALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 22, 1982 AND KNOWN AS TRUST NUMBER 105036 AS GRANTOR TO LASALLE NATIONAL BANK AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 22, 1981 AND KNOWN AS TRUST NUMBER 104022 AS GRANTEE DATED AUGUST 30, 1982 AND RECORDED SEPTEMBER 17, 1982 AS DOCUMENT 26353534 OVER THE FOLLOWING DESCRIBED LAND: LOT 2 IN WOODFIELD LAKE OFFICE CAMPUS UNIT 1 SUBDIVISION, BEING A SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AND ALSO

PARCEL 3:

THAT PART OF THE NORTHEAST ¼ OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 IN WOODFIELD LAKE OFFICE CAMPUS UNIT 1; THENCE DUE NORTH A DISTANCE OF 312.02 TO A POINT; THENCE DUE EAST A DISTANCE OF 108.50 FEET TO A POINT; THENCE DUE SOUTH A DISTANCE OF 311.03 FEET TO A POINT; THENCE NORTH 79 DEGREES 22 MINUTES 49 SECONDS WEST A DISTANCE OF 41.18 FEET TO A POINT; THENCE 74 DEGREES 52 MINUTES 34 SECONDS WEST A DISTANCE OF 38.33 FEET TO A POINT; THENCE NORTH 87 DEGREES 22 MINUTES 25 SECONDS WEST A DISTANCE OF 31.06 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

Common address:

895 American Lane, Schaumburg, IL 60173

PINs:

07-14-200-044-0000;

07-14-200-046-0000