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Doc#: 1734939084 Fee: \$70.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/15/2017 01:23 PM Pg: 1 of 12

**This Instrument Was Prepared By
and When Recorded, Return to::**

Vedder Price P.C.
222 North LaSalle Street
Chicago, Illinois 60601
Attn: Matthew T. O'Connor (MTO)

FIRST AMERICAN TITLE
FILE # 0877780

(Space Above For Recorder's Use)

SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT (this "Agreement") dated as of December 7, 2017, is made among **WILLIAM WON LEE TRUST DATED 03/15/1996, KYUNG HYUN LEE TRUST DATED 03/15/1996, and LEE FAMILY LIMITED PARTNERSHIP**, an Illinois partnership (individually and collectively, "Tenant"), **RIVERPOINT PROPERTY TRUST, LLC**, a Delaware limited liability company, transacting business under the assumed name of Riverpoint Property, LLC ("Landlord"), and **FIRST MIDWEST BANK**, an Illinois state chartered bank, its successors and assigns (the "Bank"), whose address is 180 N. LaSalle Street, Chicago, Illinois 60601.

RECITALS

A. Pursuant to that certain Amended and Restated Credit and Security Agreement of even date herewith (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among Landlord, the other Borrowers (as defined in the Credit Agreement, and, as used herein "Other Borrowers") party thereto, and Bank, Bank has agreed, among other things, subject to the terms and conditions set forth in the Credit Agreement, to make certain loans and financial accommodations to Landlord, as a borrower, which loans shall be evidenced by certain revolving and term loan notes (collectively, "Notes"). Landlord's and Other Borrowers' obligations under the Credit Agreement are secured by, among other things, a Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing (as it may have been or may be from time to time renewed, extended, amended or supplemented, the "Security Instrument"), to be recorded in the Official Records of Cook County, Illinois, covering, among other property, the land (the "Land") described in Exhibit A to this Agreement and the improvements ("Improvements") on the Land (the Land and Improvements are collectively referred to as the "Property"). All capitalized terms used herein (which are not otherwise specifically defined herein) shall be used in this Agreement as defined in the Credit Agreement. *Recorded 12/13/2017 as Doc. #1734719011

B. Tenant is the tenant under that certain Lease dated as of December 7, 2017 between Tenant, as tenant, and Landlord, as landlord (as it may from time to time be renewed, extended, amended or supplemented, the "Lease,"), covering a portion of the Property (said portion is referred to as the "Premises").



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C. The term “**Landlord**” as used in this Agreement means the current landlord under the Lease or, if the landlord’s interest is transferred in any manner, the successors or assigns occupying the position of landlord under the Lease at the time in question.

AGREEMENT

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

1. Subordination. Tenant acknowledges, confirms, agrees and covenants that the Lease and the rights of Tenant under the Lease, 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 to (a) the Security Instrument and the rights of Bank under the Security Instrument, and all right, title and interest of Bank 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 Bank which cover or affect the Property (collectively, the “**Security Documents**”). Without limitation of any other provision of this Agreement, Bank may, at its option and without joinder or further consent of Tenant, Landlord, or anyone else, at any time after the date of this Agreement, subordinate the lien of the Security Instrument, (or any other lien or security interest held by Bank which covers or affects the Property) to the Lease by executing an instrument that is intended for that purpose and that specifies such subordination. If Bank elects to subordinate the lien of the Security Instrument, Tenant will execute any documents required to evidence such subordination; *provided, however*, that notwithstanding that the Lease may by unilateral subordination by Bank hereafter be made superior to the lien of the Security Instrument, the provisions of the Security Instrument, relative to the rights of Bank with respect to proceeds arising from an eminent domain taking (including a voluntary conveyance by Landlord) and/or insurance payable by reason of damage to or destruction of the Property shall at all times be prior and superior to and shall control over any contrary provisions in the Lease.

2. Non-Disturbance. Bank agrees that so long as the Lease is in full force and effect and, to the best of Tenant’s knowledge, Tenant is not in default in the payment of rent, additional rent or other payments or in the performance of any of the other terms, covenants or conditions of any Lease in each instance beyond any applicable notice or grace periods provided therein: (i) neither Tenant’s possession of its premises nor its enjoyment of any other rights under the Lease shall be disturbed by Bank in the exercise of any of its rights under the Security Instrument, including any foreclosure or conveyance in lieu of foreclosure, and (ii) Bank will not join Tenant as a party defendant (unless required by law) for the purpose of terminating Tenant’s interest and estate under the Lease in any proceeding for foreclosure of the Security Instrument.

3. Termination of Tenant’s Interest in Lease. Tenant acknowledges and agrees that, at Bank’s election, which may be exercised at Bank’s sole discretion, Bank may terminate Tenant’s interest and estate under the Lease at any time following the occurrence of a default under the Lease. Tenant agrees not to challenge any such termination and hereby waives any rights and remedies, at law or in equity, against Bank in connection therewith.

4. Estoppel Certificate. Tenant agrees to execute and deliver from time to time, upon the request of Landlord or of any holder of any of the indebtedness or other obligations secured by the Security Instrument, 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) that no default, or state of facts which with the passage of

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time or notice (or both) would constitute a default, exists under the Lease, (f) no setoffs, recoupments, estoppels, claims or counterclaims exist against Landlord, and (g) such other matters as may be reasonably requested.

5. Attornment.

(a) Tenant covenants and agrees that if the Security Instrument, is foreclosed, whether by power of sale or by court action, or upon a transfer of the Property by conveyance in lieu of foreclosure (the purchaser at foreclosure or the transferee in lieu of foreclosure, including Bank if it is the purchaser or transferee, is referred to as the "New Owner"), and Bank does not elect to terminate the Lease, Tenant shall attorn to the New Owner as Tenant's new landlord. Tenant further covenants and agrees that in such case 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, other than provisions that are impossible for Bank to perform. Notwithstanding the foregoing, 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;

(ii) subject to any offset, recoupment, estoppel, defense, claim or counterclaim that Tenant might be entitled to assert against any previous landlord (including Landlord);

(iii) bound by any payment of rent, additional rent or other payments, made by Tenant to any previous landlord (including Landlord) for more than one (1) month in advance;

(iv) bound by any amendment, or modification of the Lease hereafter made, or consent, or acquiescence by any previous landlord (including Landlord) under the Lease to any assignment or sublease hereafter granted, without the written consent of Bank;

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

(vi) any obligation of Landlord to make, pay for, or reimburse Tenant for any construction, alterations, demolition, or other improvements or work except to the extent the New Owner assumes such obligations in writing signed by New Owner.

(b) 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 to this Agreement or the respective heirs, legal representatives, successors or assigns of any such party. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of Landlord or of any holder of any of the indebtedness or other obligations secured by the Security Instrument, any instrument or certificate which, in the reasonable judgment of Landlord or of such holder, may be necessary or appropriate in any such foreclosure proceeding or otherwise to evidence such attornment, including, if requested, a new lease of the Premises on the same terms and conditions as the Lease for the then unexpired term of the Lease.

6. Acknowledgement and Agreement by Tenant. Tenant acknowledges and agrees as follows:

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(a) Tenant acknowledges that Landlord will execute and deliver to Bank in connection with the financing or refinancing of the Property an assignment of leases and rents assigning absolutely the rent and all other sums due under the Lease as additional security. Tenant hereby expressly consents to such absolute assignment and agrees that such assignment shall, in all respects, be superior to any interest Tenant has in the Lease or any portion of the Property, subject to the provisions of this Agreement. Tenant shall not prepay any rents or other sums due under the Lease for more than one (1) month in advance of the due date therefor. Tenant acknowledges that Bank will rely upon this instrument in connection with such financing or refinancing.

(b) From and after the date of this Agreement, 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 notify Bank of such act or omission and will not exercise any such right (i) until it has given written notice of such act or omission to the Bank, 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 Bank and following the time when Bank shall have become entitled under the Security Instrument, to remedy the same, but in any event thirty (30) days after receipt of such notice or 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 Bank shall be permitted to cure or remedy such default, act or omission. Notwithstanding the foregoing, Bank shall have no duty or obligation to cure or remedy any breach or default. It is specifically agreed that Tenant shall not, as to Bank, anticipate or require cure of any such default that is personal to Landlord, and therefore not susceptible to cure by Bank.

(c) Tenant and Landlord hereby agree that if Bank notifies Tenant of a default under the Security Instrument, the Credit Agreement, the Notes, or Security Documents and demands that Tenant pay its rent and all other sums due under the Lease directly to Bank, Tenant shall honor such demand and pay the full amount of its rent and all other sums due under the Lease directly to Bank, 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 Security Instrument, the Credit Agreement, the Notes, Security Documents or otherwise in connection with the Notes, and notwithstanding any contrary instructions of or demands from Landlord and Landlord hereby agrees that Tenant shall receive credit against rent due under the Lease for any such payments made to Bank.

(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 of or any interest in the Premises or the Property, and to the extent that Tenant has had, or hereafter acquires, any such right or option, same is hereby acknowledged to be subject and subordinate to the Security Instrument, and is hereby waived and released as against Bank.

(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) Bank and any New Owner shall have no liability to Tenant or any other party for any conflict between the provisions of the Lease and the provisions of any other lease affecting the Property, including, but not limited to, any provisions relating to exclusive or non-conforming uses or rights, renewal options and options to expand, and in the event of such a conflict, Tenant shall have no right to cancel the Lease or take any other remedial action against Bank or New Owner, or against any other party for which Bank or any New Owner would be liable. Bank and any New Owner shall have no obligation nor incur any liability with respect to the erection or completion of the improvements in which



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the Premises are located or for completion of the Premises or any improvements for Tenant's use and occupancy, either at the commencement of the term of the Lease or upon any renewal or extension of the Lease or upon the addition of additional space, pursuant to any expansion rights contained in the Lease. Bank 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. If Bank or any New Owner shall acquire title to the Premises or the Property, Bank or such New Owner shall have no obligation, nor incur any liability, beyond Bank's or New Owner's then equity interest, if any, in the Property or the Premises, and Tenant shall look exclusively to such equity interest of Bank or New Owner, if any, for the payment and discharge of any obligations imposed upon Bank or New Owner under this Agreement or under the Lease or for recovery of any judgment from Bank, or New Owner, and in no event shall Bank, New Owner, nor any of their respective officers, directors, shareholders, agents, representatives, servants, employees or partners ever be personally liable for such judgment.

7. Notices. All notices, requests, consents, demands and other communications required or which any party desires to give under this Agreement shall be in writing and shall be deemed sufficiently given or furnished if delivered by personal delivery, by facsimile, by nationally recognized overnight delivery service with proof of delivery, or by registered or certified United States mail, postage prepaid, at the addresses specified below (unless changed by similar notice in writing given by the particular party whose address is to be changed).

To Tenant:

At the address set forth in the Lease

To Bank:

First Midwest Bank
180 N. LaSalle Street
Chicago, Illinois 60601
Attention: Kyle Freimuth

with a copy to:

Vedder Price P.C.
222 N. LaSalle Street, Suite 2600
Chicago, Illinois 60601
Attention: Matthew T. O'Connor, Esq.

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 in this Agreement or, in the case of facsimile, upon receipt. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt. This Paragraph 8 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 evidenced by the Notes or to require giving of notice or demand to or upon any person in any situation or for any reason.

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8. Miscellaneous.

(a) This Agreement supersedes any inconsistent provision of the Lease or any other agreement, express or implied, between Landlord and Tenant, and shall survive any termination of the Lease by operation of law following any foreclosure of the lien of the Security Instrument. 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 Security Instrument, the Credit Agreement, the Notes, or Security Documents. This Agreement shall inure to the benefit of the parties, their respective successors and permitted assigns, and any New Owner, and its heirs, personal representatives, successors and assigns; *provided, however*, that if Bank assigns or transfers its interest, all obligations and liabilities of the assigning Bank under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Bank's interest is assigned or transferred; and *provided, further*, that the interest of Tenant under this Agreement may not be assigned or transferred without the prior written consent of Bank. Tenant and Landlord agree that the liability of Landlord to Tenant under the Lease shall be limited to Landlord's estate, right, title and interest in the Premises. This agreement is to be governed by and construed in accordance with the laws of the State in which the Property is located.

(b) EACH PARTY HEREBY (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUES TRIABLE OF RIGHT BY A JURY, AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW HEREAFTER EXIST. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN, KNOWINGLY AND VOLUNTARILY, BY EACH PARTY, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE ACCRUE. EACH PARTY IS HEREBY AUTHORIZED AND REQUESTED TO SUBMIT THIS AGREEMENT TO ANY COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES TO THIS AGREEMENT, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF THE FOREGOING WAIVER OF THE RIGHT TO JURY TRIAL. FURTHER, EACH PARTY HEREBY CERTIFIES THAT NO REPRESENTATIVE OR BANK OF ANOTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WILL NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION.

(c) This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by each of the parties to this Agreement or their respective successors in interest. If any provision of the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality or unenforceability shall not apply to or affect any other provision of this Agreement, but this Agreement shall be construed as if such invalidity, illegality, or unenforceability did not exist. If any bankruptcy proceedings shall hereafter commence with respect to Landlord, and if the Lease is rejected by the trustee pursuant to Section 365 of the United States Bankruptcy Code, Tenant agrees with Bank (i) not to treat the Lease as terminated, and (ii) to remain in possession of the Premises.

[NO FURTHER TEXT ON THIS PAGE]

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(Signature Page to Subordination, Non-Disturbance and Attornment Agreement)

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

FIRST MIDWEST BANK,
an Illinois banking corporation

By: Carley Diederich
Name: Carley Diederich
Title: AVP

ACKNOWLEDGMENT

STATE OF Illinois)
) ss:
COUNTY OF DuPage)

On this 7th day of December, 2017 before me, the undersigned officer, personally appeared Carley Diederich, personally known to me, or proved to me on the basis of satisfactory evidence, and who acknowledged that he/she is the AVP of **FIRST MIDWEST BANK**, and that as such officer, being duly authorized to do so pursuant to the company's bylaws or a resolution of its board of directors, executed, subscribed and acknowledged the foregoing instrument for the purposes therein contained, by signing the name of the company by himself/herself in his/her authorized capacity as such officer, as his/her free and voluntary act and deed and the free and voluntary act and deed of the company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[NOTARIAL SEAL]



Laura Beleski
Notary Public

My Commission Expires:
7/17/18

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(Signature Page to Subordination, Non-Disturbance and Attornment Agreement)

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

LANDLORD:

RIVERPOINT PROPERTY TRUST, LLC, a Delaware limited liability company transacting business under the assumed name of Riverpoint Property, LLC

By: [Signature]
Name: Michael [Signature]
Title: RESIDENT

ACKNOWLEDGMENT

STATE OF IL)
) ss:
COUNTY OF COOK)

On this 6th day of December, 2017 before me, the undersigned officer, personally appeared Resident, personally known to me, or proved to me on the basis of satisfactory evidence, and who acknowledged that he is the manager for Riverpoint Property Trust LLC an Delaware limited liability company transacting business under the assumed name of Riverpoint Property, LLC, and that as such manager, being duly authorized to do so pursuant to the company's bylaws or a resolution of its board of directors, executed, subscribed and acknowledged the foregoing instrument for the purposes therein contained, by signing the name of the company by himself in his authorized capacity as such officer, as his free and voluntary act and deed and the free and voluntary act and deed of the company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Signature: Stephanie E. Wilson]
Notary Public

My Commission Expires:
10/22/18

[Signature]

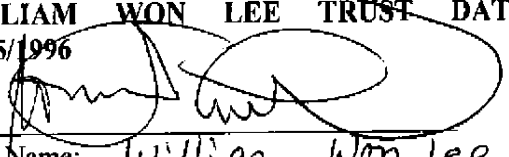
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(Signature Page to Subordination, Non-Disturbance and Attornment Agreement)

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

TENANT:

WILLIAM WON LEE TRUST DATED
03/15/1996

By: 
Print Name: William Won Lee
Title: _____

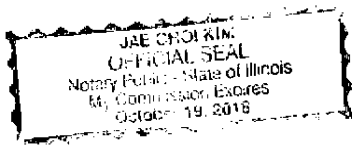
ACKNOWLEDGMENT


STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 7 day of December, 2017, before me, the undersigned William Lee, personally appeared Before me, personally known to me, or proved to me on the basis of satisfactory evidence, and who acknowledged that he/she is the Trustee for William Won Lee TRUST (3/15/1996), and that as such Trustee, being duly authorized to do so pursuant to the TRUST AGREEMENT executed, subscribed and acknowledged the foregoing instrument for the purposes therein contained, by signing the name of the **WILLIAM WON LEE TRUST DATED 03/15/1996** by himself/herself in his/her authorized capacity as such Trustee, as his/her free and voluntary act and deed and the free and voluntary act and deed of **WILLIAM WON LEE TRUST DATED 03/15/1996**.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[NOTARIAL SEAL]





Notary Public

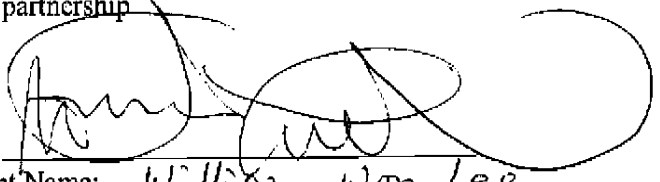
My Commission Expires:
10/19/2018

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

TENANT:

LEE FAMILY LIMITED PARTNERSHIP, an Illinois partnership

By: 
 Print Name: William Won Lee
 Title: General Partner

ACKNOWLEDGMENT

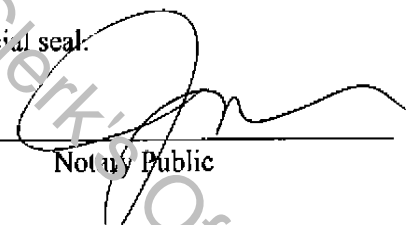
STATE OF ILLINOIS)
) ss:
 COUNTY OF COOK)

On this 7th day of December, 2017, before me, the undersigned William Won Lee, personally appeared before me personally known to me, or proved to me on the basis of satisfactory evidence, and who acknowledged that he/she is the general partner for Lee Family Limited Partnership and that as such General Partner, being duly authorized to do so pursuant to the Agreement executed, subscribed and acknowledged the foregoing instrument for the purposes therein contained, by signing the name of the **LEE FAMILY LIMITED PARTNERSHIP, AN ILLINOIS PARTNERSHIP** by himself/herself in his/her authorized capacity as such General Partner, as his/her free and voluntary act and deed, and the free and voluntary act and deed of **LEE FAMILY LIMITED PARTNERSHIP, AN ILLINOIS PARTNERSHIP**.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[NOTARIAL SEAL]




 Notary Public
 My Commission Expires: 12/19/2018

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(Signature Page to Subordination, Non-Disturbance and Attornment Agreement)

EXHIBIT A

Legal Description of the Land

Real property in the City of Elk Grove Village, County of Cook, State of Illinois, described as follows:

Lot 287 in Centex Industrial Park Unit No. 167, being a Subdivision in the South Half of Section 34, Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As: 955 Pratt Avenue, Elk Grove Village, Illinois

Permanent Index No.: 08-34-307-016-0000

