
Tax Parcel # 10-028-0057

LEHMAN BROTHERS BANK, FSB

and
FIFTH AVENUE TUXEDOS
A Utah Corporation
(Tenant)

SUBORDINATION, NON-DISTURBANCE AND
ATTORNEY AGREEMENT

Dated: 8-18-06

Location: 1596 North Hill Field Road, Suite 1F,
Layton, Davis County, Utah

UPON RECORDATION

RETURN TO:

Stroock & Stroock & Lavan LLP
2029 Century Park East, Suite 1800
Los Angeles, California 90067
Attention: Chauncey M. Swalwell

E 2206822 B 4129 P 543-554
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
10/2/2006 9:38:00 AM
FEE \$32.00 Pgs: 12
DEP eCASH REC'D FOR THE TALON GROUP

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made as of the 18th day August, 2006 by and between LEHMAN BROTHERS BANK, FSB, having an address at 399 Park Avenue, 8th Floor, New York, New York 10022 ("Lender") and Fifth Avenue Tuxedos, a Utah corporation, having an address at 1596 North Hill Field Road, Suite 1F, Layton, Utah 84041 ("Tenant").

RECITALS:

Tenant is the holder of a leasehold estate in Suite 1F in a portion of the property known as Layton Hills Business Park, located at 1596 North Hill Field Road, Layton, Utah 84041, as more particularly described on Schedule A (the "Property") under and pursuant to the provisions of a certain lease dated April 1, 2006, between Layton Hills Associates, LLC, as landlord (and together with its successors and assigns, "Landlord") and Tenant or its predecessor in interest, as tenant (as amended through the date hereof, the "Lease");

1. The Property is or is to be encumbered by one or more mortgages, deeds of trust, deeds to secure debt or similar security agreements (collectively, the "Security Instrument") from Landlord, in favor of Lender; and

2. Tenant has agreed to subordinate the Lease to the Security Instrument and to the lien thereof and Lender has agreed to grant non-disturbance to Tenant under the Lease on the terms and conditions hereinafter set forth.

AGREEMENT:

NOW, THEREFORE, the parties hereto mutually agree as follows: Subordination. The Lease shall be subject and subordinate in all respects to the lien and terms of the Security Instrument, to any and all advances to be made thereunder and to all renewals, modifications, consolidations, replacements and extensions thereof.

1. Nondisturbance. So long as Tenant pays all rents and other charges as specified in the Lease and is not otherwise in default (beyond applicable notice and cure periods) of any of its obligations and covenants pursuant to the Lease, Lender agrees for itself and its successors in interest and for any other person acquiring title to the Property through a foreclosure (an "Acquiring Party"), that Tenant's possession of the premises as described in the Lease will not be disturbed during the term of the Lease, as said term may be extended pursuant to the terms of the Lease or as said premises may be expanded as specified in the Lease, by reason of a foreclosure. For purposes of this agreement, a "foreclosure" shall include (but not be limited to) a sheriff's or trustee's sale under the power of sale contained in the Security Instrument, the termination of any superior lease of the Property and any other transfer of the Landlord's interest in the Property under peril of foreclosure, including, without limitation to the generality of the foregoing, an assignment or sale in lieu of foreclosure.

2. Attornment. Tenant agrees to attorn to, accept and recognize any Acquiring Party as the landlord under the Lease pursuant to the provisions expressly set forth therein for the then remaining balance of the term of the Lease, and any extensions thereof as made pursuant to the Lease. The foregoing provision shall be self-operative and shall not require the execution of any further instrument or agreement by Tenant as a condition to its effectiveness. Tenant agrees, however, to execute and deliver, at any time and from time to time, upon the request of the Lender or any Acquiring Party any reasonable instrument which may be necessary or appropriate to evidence such attornment.

3. No Liability. Notwithstanding anything to the contrary contained herein or in the Lease, it is specifically understood and agreed that neither the Lender, any receiver nor any Acquiring Party shall be:

(a) liable for any act, omission, negligence or default of any prior landlord (other than to cure defaults of a continuing nature with respect to the maintenance or repair of the demised premises or the Property); provided, however, that any Acquiring Party shall be liable and responsible for the performance of all covenants and obligations of landlord under the Lease accruing from and after the date that it takes title to the Property; or

(b) except as set forth in (a), above, liable for any failure of any prior landlord to construct any improvements;

(c) subject to any offsets, credits, claims or defenses which Tenant might have against any prior landlord; or

(d) bound by any rent or additional rent which is payable on a monthly basis and which Tenant might have paid for more than one (1) month in advance to any prior landlord; or

(e) be liable to Tenant hereunder or under the terms of the Lease beyond its interest in the Property.

Notwithstanding the foregoing, Tenant reserves its rights to any and all claims or causes of action against such prior landlord for prior losses or damages and against the successor landlord for all losses or damages arising from and after the date that such successor landlord takes title to the Property.

3. Rent. Tenant has notice that the Lease and the rents and all other sums due thereunder have been assigned to Lender as security for the loan secured by the Security Instrument. In the event Lender notifies Tenant of the occurrence of a default under the Security Instrument and demands that Tenant pay its rents and all other sums due or to become due under the Lease directly to Lender, Tenant shall honor such demand and pay its rent and all other sums due under the Lease directly to Lender or as otherwise authorized in writing by Lender. Landlord hereby irrevocably authorizes Tenant to make the foregoing payments to Lender upon such notice and demand.

4. Lender to Receive Notices. Tenant shall notify Lender of any default by Landlord under the Lease which would entitle Tenant to cancel the Lease, and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation thereof shall be effective unless Lender shall have received notice of default giving rise to such cancellation and shall have failed within sixty (60) days after receipt of such notice to cure such default, or if such default cannot be cured within sixty (60) days, shall have failed within sixty (60) days after receipt of such notice to commence and thereafter diligently pursue any action necessary to cure such default.

5. NOTICES. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person with receipt acknowledged by the recipient thereof, (ii) one (1) Business Day (hereinafter defined) after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the receiving party at its address set forth above, and:

if to Tenant
to the attention of: John B. Winter
Fifth Avenue Tuxedos
1047 North 575 West
Clinton, Utah 84015

if to Lender
to the attention of: Lehman Brothers Bank, FSB
399 Park Avenue, 8th Floor
New York, New York 10022
Attention: John Herman

or addressed as such party may from time to time designate by written notice to the other parties. For purposes of this Paragraph 7, the term "Business Day" shall mean any day other than Saturday, Sunday or any other day on which banks are required or authorized to close in New York, New York.

Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

6. Successors. The obligations and rights of the parties pursuant to this Agreement shall bind and inure to the benefit of the successors, assigns, heirs and legal representatives of the respective parties. In addition, Tenant acknowledges that all references herein to Landlord shall mean the owner of the landlord's interest in the Lease, even if said owner shall be different than the Landlord named in the Recitals.

7. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

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

LENDER:
LEHMAN BROTHERS BANK, FSB

By: Catherine Harnett
Name: CATHERINE HARNETT
Title: AUTHORIZED SIGNATORY

TENANT:
Fifth Avenue Tuxedos, a Utah corporation

By: John B. Winter
Name: JOHN B. WINTER
Title: PRESIDENT

if to Lender
to the attention of: Lehman Brothers Bank, FSB
399 Park Avenue, 8th Floor
New York, New York 10022
Attention: John Herman

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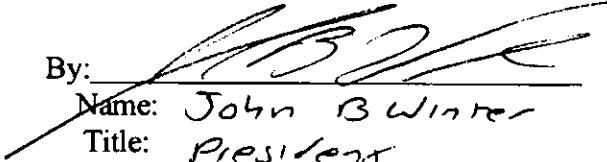
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IN WITNESS WHEREOF, Lender and Tenant have duly executed this Agreement as of the date first above written.

LENDER:
LEHMAN BROTHERS BANK, FSB

By: _____
Name:
Title:

TENANT:
Fifth Avenue Tuxedos, a Utah corporation

By: 
Name: John B. Winter
Title: President

Subordination, Non-Disturbance and Attornment Agreement, Signatures continued

The undersigned accepts and agrees to the provisions of Paragraph 5 hereof.

LANDLORD:

Layton Hills Associates, LLC
By: Vectra Management Group, Inc.
Its Manager

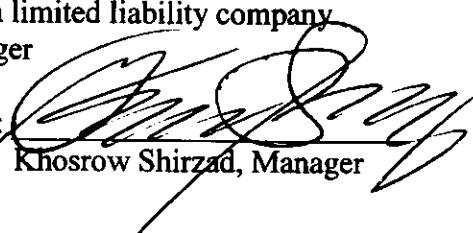
By: R. L. Shah
Its: Raju L. Shah
Vice President

Subordination, Non-Disturbance and Attornment Agreement, Signatures continued

The undersigned accepts and agrees to the provisions of Paragraph 5 hereof.

LANDLORD:
1550 ASSOCIATES LLC,
a Utah limited liability company

By: Chateau Development Company, L.C.
a Utah limited liability company
Its: Manager

By: 
Khosrow Shirzad, Manager

**MULTI-STATE CORPORATE GENERAL PARTNER ACKNOWLEDGEMENT
(LENDER)**

STATE OF)
New York : SS.:
COUNTY OF)
New York

On this 25 day of September, 2006, before me, the undersigned officer, personally appeared:

(a) _____ Catherine Harnett

and

(b) _____

personally known and acknowledged himself/herself/themselves to me (or proved to me on the basis of satisfactory evidence to be the

[a] [Vice] President, and AUTHORIZED SIGNATORY
[b] (Assistant) Secretary [(Assistant) Treasurer]

respectively of **Lehman Brothers Bank, FSB** (hereinafter, the "Bank")

and that as such officer(s), being duly authorized to do so pursuant to its 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 Bank by himself/herself/themselves in their authorized capacity as such officer(s) as his free and voluntary act and deed and the free and voluntary act and deed of said Bank

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

Milagros Alcaez
Notary Public Milagros Alcaez

Notarial Seal

MILAGROS ALICEA
Notary Public, State of New York
No. 01ALB144813
Qualified in Bronx County
Term Expires May 1, 2010

My Commission Expires:

May 1, 2010

**MULTI-STATE CORPORATE ACKNOWLEDGMENT
(TENANT)**

STATE OF Utah)

COUNTY : SS.:
OF)
SALT LAKE

On this 14 day of August, 2006, before me, the undersigned officer, personally appeared:

(a) JOHN B. WINTER

personally known and acknowledged himself/herself/themselves to me (or proved to me on the basis of satisfactory evidence to be the

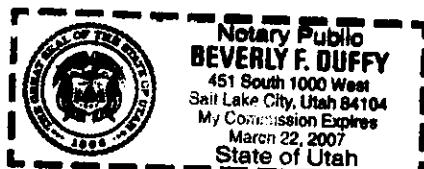
[a] [Vice] President.

of Fifth Avenue Tuxedos (hereinafter, the "Corporation"), and that as such officer(s), being duly authorized to do so pursuant to its 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 Corporation by himself/herself/themselves in their authorized capacity as such officer(s) as his free and voluntary act and deed and the free and voluntary act and deed of said Corporation.

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

Bunny Fluffy
Notary Public

Notarial Seal



My Commission Expires:

3-22-07

**MULTI-STATE LIMITED LIABILITY COMPANY ACKNOWLEDGMENT
BY CORPORATE MANAGER (LANDLORD)**

STATE Utah OF)
COUNTY Salt Lake OF) : SS.:

On this 31st day of August, 2006, before me, the undersigned officer, personally appeared:

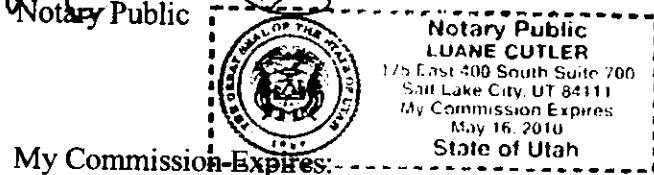
(a) Raju L. Shah,

personally known and acknowledged himself/herself/themselves to me (or proved to me on the basis of satisfactory evidence to be the

[a] [Vice] President,

of Vectra Management Group, Inc., (hereinafter, the "Corporation"), which said Corporation is the Manager of Layton Hills Associates, LLC (hereinafter, the "LLC"), and that as such officer(s), being duly authorized to do so pursuant to its 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 LLC by himself/herself/themselves in their authorized capacity as such officer(s) as his free and voluntary act and deed and the free and voluntary act and deed of said LLC.

Notarial Seal



**MULTI-STATE LIMITED LIABILITY COMPANY ACKNOWLEDGMENT
BY LIMITED LIABILITY COMPANY MANAGER (LANDLORD)**

STATE Utah OF)

COUNTY Salt Lake OF) : SS.:

On this 18th day of Sept., 2006, before me, the undersigned officer, personally appeared:

(a) Khosrow Shirzad,

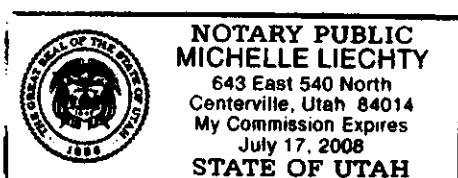
personally known and acknowledged himself/herself/themselves to me (or proved to me on the basis of satisfactory evidence to be the

[a] Manager,

Of Chateau Development Company, L.C., a Utah limited liability company, (hereinafter, the "Company"), which said Company is the Manager of 1550 Associates, LLC, a Utah limited liability company (hereinafter, the "LLC"), and that as such being duly authorized to do so pursuant to its Articles of Organization or Operating Agreement or resolution of the Company, executed, subscribed and acknowledged the foregoing instrument for the purposes therein contained, by signing the name of the LLC by himself/herself/themselves in their authorized capacity as such Manager(s) as his free and voluntary act and deed and the free and voluntary act and deed of said LLC.

Michele Liechty
Notary Public

Notarial Seal



My Commission Expires:

07-17-2008

Schedule "A"

Property Legal Description

Suite 1F within the Property located in Davis County, Utah described as follows:

Beginning at a point on the South line of that certain property described in that certain Warranty Deed dated 16 November 1996 and recorded 19 November 1996 as Entry no. 1288099 in Book 2065 at Page 1240 of official records, said point being located South 89°54'50" West 680.42 feet and North 0°09'12" East 290.46 feet to said South Line and North 89°46'06" West along said South Line 286.50 feet from the East Quarter Corner of Section 17, Township 4 North, Range 1 West, Salt Lake Base and Meridian and running thence North 89°46'06" West along said South Line 305.92 feet to the East Line of 400 West Street; thence North 0°08'48" East along said East Line 411.10 feet to the Southwesterly corner of the Foxcreek Apartment Complex; thence South 89°50'48" East along the South line of said Foxcreek Apartment Complex 380.59 feet to a point on the extension of a party wall line; thence South 0°14'13" West along said party wall line and the extension thereof 346.39 feet to the Southeast corner of an existing block building; thence North 89°46'06" West 74.13 feet; thence South 0°08'48" West 65.23 feet to the point of beginning.