

UTZ 85922-KR

2009-011588

Klamath County, Oregon



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08/28/2009 03:15:28 PM

Fee: \$46.00

WHEN RECORDED, RETURN TO:

Pacific Continental Bank
P.O. Box 10727
Eugene, OR 97440-2727
Attn: Legal Department

Recorder's Use

SUBORDINATION, ATTORNMENMENT AND ESTOPPEL AGREEMENT

PARTIES:

PACIFIC CONTINENTAL BANK
P.O. Box 10727
Eugene, OR 97440-2727

("Bank")

TUCKER PROFESSIONAL BUILDING LLC
2586 Clover Street
Klamath Falls, OR 97601

("Owner")

and

THOMAS TUCKER D.M.D., GENERAL DENTISTRY, INC.
2586 Clover Street
Klamath Falls, OR 97601

("Tenant")

This Subordination and Attornment Agreement ("Agreement") is made and entered into as of this 21st day of August, 2009, by and between Bank, Owner and Tenant.

RECITALS

A. Owner has entered, or is about to enter, into a loan arrangement with Bank which will be secured by the real property more commonly known as 2586 Clover Street, Klamath Falls, OR 97601 ("Premises").

Altmt

B. Tenant currently leases certain space on Premises pursuant to an unrecorded lease ("Lease"). The term "Lease" includes all extensions, renewals, modifications, and substitutions of the Lease and any other lease of space on the Premises.

C. Bank's loan to Owner (the "Indebtedness") is or will be secured by a Deed of Trust, Mortgage or other encumbrance on the Premises (collectively, the "Trust Deed"), the legal description for which is set forth on Exhibit A attached hereto and incorporated herein. The term "Trust Deed" includes all modifications, amendments and replacements for the Trust Deed. The term "Indebtedness" includes any subsequent increases, consolidations, renewals, extensions, modifications and refinancings of Borrower's loan with Bank.

AGREEMENT

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

1. **Subordination of Lease.** Tenant hereby irrevocably subordinates to Bank's Trust Deed on the Premises and Bank's rights therein, each and every right it may now or hereafter have by virtue of the Lease.

2. **Attornment.** Tenant agrees that in the event of Bank's foreclosure of the Trust Deed or other transfer of the fee title to the Premises, Tenant will attorn to the rights of the transferee of the Premises and shall continue to abide by the term of the Lease acknowledging the transferee as landlord of the Premises. Provided Tenant is in full compliance with its obligations under the Lease and this Agreement, Bank agrees that no foreclosure or deed in lieu of foreclosure of its Trust Deed will affect Tenant's rights under the Lease. The transferee of the Premises shall not be liable for any act or omission of Owner nor subject to any offsets or defenses that Tenant may have against Owner, and Tenant shall retain all of its rights and remedies available to Tenant at law or pursuant to the Lease against the Owner.

3. **Estoppel.** Tenant hereby certifies to and agrees with Bank as follows:

3.1 the Lease is in full force and effect;

3.2 all the requirements for the commencement and validity of the Lease have been satisfied;

3.3 Tenant is not in default under the Lease; to the best of the Tenant's knowledge, information and belief, Owner is not in default under the Lease; no act, event or condition has occurred, which with notice or the lapse of time, or both, would constitute a default by Tenant or Owner under the Lease; and no claim by Tenant of any nature exists against Owner under the Lease;

3.4 there are no defenses, counterclaims or setoffs against rents or charges due or which may become due under the Lease;

3.5 none of the rent which Tenant is required to pay under the Lease has been prepaid, or will in the future be prepaid, more than one month in advance;

3.6 Tenant has no right or option contained in the Lease or in any other document to purchase all or any portion of the leased Premises;

3.7 the Lease has not been modified or amended and shall not hereafter be modified or amended in any material respect without the prior written consent of Bank in each instance; and

3.8 Tenant has not assigned, mortgaged, sublet, encumbered or otherwise transferred any or all of its interest under the Lease.]

4. **Notice of Default.** Tenant agrees to give Bank a copy of any notice of default it tenders to Owner or any other party regarding the Lease. Bank shall have thirty (30) days from receipt of such written notice to cure the default, although it shall not be required to do so.

5. **Successors and Assigns.** All the terms and provisions of this Agreement shall inure to the benefit of and shall be binding upon the heirs, personal representatives, successors and/or assigns of the parties to this Agreement.

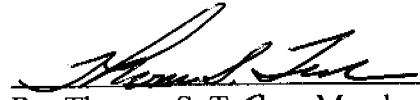
6. **Attorney Fees.** If suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is commenced to interpret or enforce any provisions of this Agreement, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys' fees, costs and expenses actually incurred and reasonably necessary in connection therewith, at trial, on appeal or in any arbitration proceeding, in addition to all other amounts provided by law.

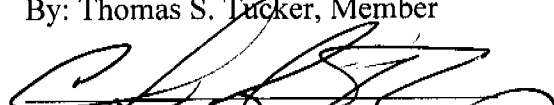
7. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement, and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Oregon.

[Signature pages follow]

OWNER:
TUCKER PROFESSIONAL BUILDING
LLC


By: Thomas S. Tucker, Member


By: Christine S. Tucker, Member

LLC Acknowledgment

STATE OF OREGON)
County of Klamath) ss.

This instrument was acknowledged before me on August 27, 2009, Thomas S. Tucker, as Member of Tucker Professional Building LLC, on behalf of the company.




Notary Public for the State of Oregon
My Commission Expires: 11/16/2011

LLC Acknowledgment

STATE OF OREGON)
County of Klamath) ss.

This instrument was acknowledged before me on August 27, 2009, Christine S. Tucker, as Member of Tucker Professional Building LLC, on behalf of the company.




Notary Public for the State of Oregon
My Commission Expires: 11/16/2011

TENANT:
THOMAS TUCKER D.M.D., GENERAL
DENTISTRY, INC.

By: [Signature]
Thomas S. Tucker, Secretary

Company Acknowledgment

STATE OF OREGON

County of Klamath ss.

This instrument was acknowledged before me on August 27, 2009, by Thomas S. Tucker as Secretary of Thomas Tucker D.M.D., General Dentistry, Inc., on behalf of the company.



[Signature]
Notary Public for the State of Oregon
My Commission Expires: 11/16/2011

BANK:

PACIFIC CONTINENTAL BANK

By: _____
Title: Authorized Officer

Lender Acknowledgement

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2009, by _____ as the Authorized Officer of Pacific Continental Bank, on behalf of the Bank.

Notary Public for the State of Oregon
My Commission Expires: _____

EXHIBIT A

Lot 9 in Block 5 of TRACT NO. 1163, CAMPUS VIEW, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

In Klamath County, ~~Washington~~
Oregon

