

**2012056907 00110**

FORSYTH CO, NC FEE \$26.00

PRESENTED & RECORDED:

12-21-2012 12:42:26 PM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS
BY: RANDY L SMITH
DPT**BK: RE 3097****PG: 4177-4180***Titles Express 157*

**FIRST-CITIZENS BANK & TRUST COMPANY
TENANT SUBORDINATION AND ATTORNMENT AGREEMENT
(NORTH CAROLINA)**

Prepared by: Melanie Shore

Return to: First-Citizens Bank & Trust Company
3001 Trenwest Drive, Winston Salem, NC 27103

This Tenant Subordination and Attornment Agreement (this "Agreement") is made and entered into as of the 21 day of December, 2012, by and between the following parties:

"Tenant": W Mark Suttle DDS MS PA
Address: 1617 S Hawthorne Rd.
Winston Salem, NC 27103

"Bank": First-Citizens Bank & Trust Company
Address: 3001 Trenwest Drive
Winston Salem, NC 27103

WHEREAS:

1. Tenant has, may have, or claims to have certain rights to occupy that real property described or identified below (the "leased premises") pursuant to an understanding or agreement (the "Lease," whether formal or informal, written or unwritten) with Forsyth P E Associates (the "Landlord").
The leased premises are located in Forsyth County, North Carolina, and are more particularly identified or described as follows:
See attached Exhibit A

2. For purposes of this Agreement, the term "Borrower" refers to James M Gambill. The Bank has (i) acquired one or more existing loans and/or other financial accommodations made to the Borrower, and/or (ii) extended (and/or will extend) one or more loans and/or other financial accommodations to the Borrower. All of these loans and financial accommodations are collectively referred to in this Agreement as the "Loan." Repayment of the Loan is or will be secured by one or more deeds of trust for the benefit of Bank as beneficiary (collectively, the "Deed of Trust") and may be secured by an assignment of the Landlord's interest in leases, rents and profits arising from the leased premises (the "Assignment"). For purposes of this Agreement, the Deed of Trust and the Assignment include all amendments, modifications, extensions and renewals thereof and all substitutions therefor. The property described in the Deed of Trust and the Assignment includes all or a portion of the leased premises.
3. Bank is unwilling to make the Loan unless Tenant agrees to subordinate the Lease to the Deed of Trust and acknowledge the Assignment, and Tenant has so agreed.

NOW, THEREFORE, for and in consideration of the willingness of Bank to make the Loan, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant hereby covenants and agrees as follows:

1. Tenant hereby subordinates the Lease and all of Tenant's rights under the Lease (including, without limitation, any and all options to purchase, rights of first refusal, and rights of first negotiation) to the Deed of Trust and the lien thereof, and to all indebtedness secured by the Deed of Trust, whether now existing or hereafter arising.
2. The Deed of Trust and/or the Assignment permit Bank under certain circumstances to collect all rents and other monies due under the Lease without taking possession of the leased premises and without assuming Landlord's position or any of Landlord's obligations under the Lease. Tenant agrees to pay all rents and other sums due and payable under the Lease directly to Bank or at Bank's direction immediately upon receipt of a copy of the Deed of Trust or Assignment and Bank's written notice or demand concerning such payments. Payments to Bank or at Bank's direction shall continue until Bank directs Tenant otherwise in writing. Tenant shall not pay any rent under the Lease more than one month in advance without Bank's written consent.
3. If the Bank or any other person or entity (the "New Owner") acquires ownership of the leased premises as a result of a default under the Deed of Trust, whether as a result of foreclosure of the Deed of Trust, acceptance of a deed to the leased premises in lieu of foreclosure, or otherwise, then New Owner may, at its option, either (i) terminate the Lease, in which case New Owner shall give Tenant at least thirty (30) days written notice that the Lease has been terminated, after which Tenant shall have no right to occupy the leased premises or any further rights under the Lease, or (ii) continue the Lease in full force and effect and recognize and accept Tenant as tenant under the Lease. If New Owner elects to continue the Lease in full force and effect, then:
 - a) Tenant shall, at the New Owner's request, attorn to the New Owner, recognize the New Owner as landlord under the Lease, and execute a written attornment agreement in favor of the New Owner;
 - b) The Lease shall continue in full force and effect as a direct lease between the New Owner and Tenant under the same terms, covenants and conditions for the full remaining term thereof and any extensions or renewal thereof that may be effected in accordance with any option in the Lease; and
 - c) The New Owner shall thereafter assume and perform all of Landlord's obligations as the landlord under the Lease with the same force and effect as if the New Owner were originally named therein as landlord; provided, however, that the New Owner shall not be: (i) liable for any act, omission or default of any prior landlord (including Landlord); or (ii) subject to any offsets or defenses that have accrued prior to the date New Owner acquires ownership of the Landlord's interest in the leased premises; or (iii) bound by any rent or additional rent that Tenant may have paid for more than one month in advance or any security deposit paid to any prior landlord (including Landlord) unless such rent, additional rent or security deposit is actually in the New Owner's possession; (iv) bound by any provision of the Lease that gives Tenant an option, right of first refusal, or right of first negotiation to purchase the leased premises; or (v) bound by any material amendment or modification of the Lease, any assignment of the Lease, or any subletting of the leased premises made without Bank's consent.

IN WITNESS WHEREOF, each individual signing this Agreement has hereunto set his or her hand, and each other entity has caused this Agreement to be executed in its name by a person or persons duly authorized, all by authority duly given, and all as of the date of this Agreement.

TENANT (BUSINESS ENTITY):**INDIVIDUAL TENANT(S):**

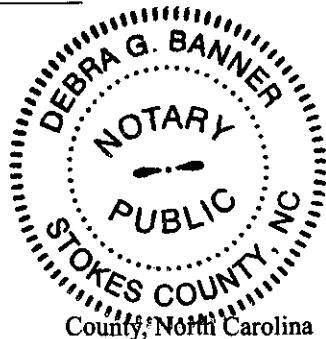
W Mark Suttle DDS MS PA

Name of Entity

By: W Mark SuttlePrint or Type Name: W. Mark SuttleTitle: PresidentForsyth County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: W Mark Suttle.

Date: 12.21.2012
(Official Seal)



Debra G. Banner
Signature of Notary Public

Debra G. Banner, Notary Public
Printed or typed name

My commission expires: 3-25-2015

County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____.

Date: _____
(Official Seal)

Signature of Notary Public

_____, Notary Public
Printed or typed name

My commission expires: _____

EXHIBIT A

BEGINNING at a P. K. nail in the southern right-of-way line of Hawthorne Road, northwestern corner of the David J. Barabe, et ux, tract as described in Deed Book 1165, page 143, Forsyth County Registry; said beginning point being further known and designated as a point along said right-of-way line South $82^{\circ} 27' 53''$ East a total distance of 197.53 feet from an iron in the northwestern corner of Lot 85, Block 6 as shown on Map of West Branchland recorded in Plat Book 2, Page 41, Forsyth County Registry; from said beginning point thence continuing the following three calls and distances with said Barabe tract; South $07^{\circ} 32' 07''$ West 128.49 feet to a P.K. nail; South $82^{\circ} 27' 53''$ East 57.50 feet to a P. K. nail; South $07^{\circ} 32' 07''$ West 31.50 feet to an iron; running thence North $82^{\circ} 23' 51''$ West 70-94 feet to an iron; running thence North $82^{\circ} 42' 31''$ West 63.47 feet to an iron; running thence North $82^{\circ} 11' 59''$ West 56.67 feet to an iron; running thence North $82^{\circ} 55' 51''$ West 60.08 feet to an iron; running thence North $05^{\circ} 09' 18''$ East 160.45 feet to an iron in the southern right-of-way line of Hawthorne Road; thence continuing with said right-of-way line South $82^{\circ} 27' 53''$ East (passing an iron at 59.94 feet) a total distance of 197.53 feet to the point and place of beginning, according to survey prepared by Daniel W. Donathan, RL&L-1192 dated December 7, 1992.