



201012160086

Skagit County Auditor

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Return Address

U.S. BANK NATIONAL ASSOCIATION
PD-WA-T11S
1420 Fifth Avenue, 11th Floor
Seattle, Washington 98101
Attn: Noah G. Stockton

GUARDIAN NORTHWEST TITLE CO.**Document Title(s)** (or transactions contained therein):

100872

1. MEMORANDUM OF LEASE AND SUBORDINATION AGREEMENT

Reference Number(s) of Documents assigned or released:

(on page ___ of documents(s)) BT# 201011300045

Grantor(s) (Last name first, then first name and initials):

1. Laboratory Corporation of America, a Delaware corporation
2. BBC Biochemical Corporation, a Washington corporation

Grantee(s) (Last name first, then first name and initials):

1. U.S. Bank national Association, a national banking association
- 2.
3. ☐ Additional names on page ___ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Lot 4 "PLAT OF REO FAMILY PROPERTIES, LLC"

☒ Full legal is on Exhibit A of document.**Assessor's Property Tax Parcel/Account Number**

4899-000-004-0000; APN: P124756

462053 (13)
1ST AM

MEMORANDUM OF LEASE AND SUBORDINATION AGREEMENT

Date: November 23, 2010

Lease Parties: Laboratory Corporation of America, a Delaware corporation
("Subtenant") and

BBC Biochemical Corporation, a Washington corporation
("Sublandlord")

Lender: U.S. BANK NATIONAL ASSOCIATION ("Lender")
Commercial Real Estate Loan Administration
1420 Fifth Avenue, 8th Floor
Seattle, Washington 98101

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

Sublease Dated: November 3, 2009

DEC 16 2010

Initial Lease Term:

10 years

Amount Paid \$
By Skagit Co. Treasurer
mam Deputy

W I T N E S S E T H :

WHEREAS, Sublandlord and Skagit Pathology, Inc., P.S., a Washington professional service corporation, Pathtech, L.L.C., a Washington limited liability company, and Medical Diagnostic Laboratory, Inc., a Washington corporation (collectively, "Original Subtenants") entered into a Sublease dated as of November 3, 2009 (the "Sublease"), covering premises (the "Premises") described more particularly on attached Exhibit A. Pursuant to the terms of that certain Amendment to Lease and Assignment and Assumption of Lease and Consent effective as of September 16, 2010 (the "Original Assignment"), Original Subtenants assigned all of their leasehold interests under the Sublease to IDX Pathology, Inc., a Delaware corporation ("IDX"), and IDX further assigned all of its leasehold interests under the Sublease to Subtenant pursuant to the terms of that certain Amendment to Lease and Assignment and Assumption of Lease and Consent effective as of September 16, 2010 among IDX, Subtenant and Sublandlord (the "IDX Assignment"). Subtenant and Sublandlord desire to record a Memorandum of Lease in the records of Skagit County, Washington with respect to the Sublease; and

WHEREAS, the Lender has made a loan of \$6,080,000 to BIESECKER HOLDINGS, LLC ("Borrower"), the master landlord of the Premises, which shall be secured by a Deed of Trust, hereinafter referred to as "mortgage" (which mortgage also secures any future advances made by Lender); provided, however, that said Sublease is subordinate to the lien of the



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mortgage. The Deed of Trust was recorded on November 30, 2010 under Skagit County Recorder's file No. 201011300095; and

WHEREAS, Lender has been requested by Subtenant and by Sublandlord to enter into a non-disturbance agreement with Subtenant;

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties hereto mutually covenant and agree as follows:

MEMORANDUM OF LEASE

1. The initial term of the Sublease shall commence on the Commencement Date, as defined in the Sublease, and shall expire at midnight on September 17, 2020, unless sooner terminated as provided in the Sublease.

2. This Memorandum is prepared for the purpose of recordation to give notice of the Sublease and later assignment. It shall not constitute an amendment or modification of the Sublease, the Original Assignment or the IDX Assignment.

3. This Memorandum is subject to all of the terms, conditions and understandings set forth in the Sublease. In the event of a conflict between the terms and conditions of this Memorandum and the terms and conditions of the Sublease, the terms and conditions of the Sublease shall prevail.

SUBORDINATION AGREEMENT

1. The Sublease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of the Subtenant in and to said Premises, including but not limited to any option or right of first refusal to purchase Premises, or any acquisition of title to the Premises by Subtenant during the term of the mortgage and to advances made or to be made thereunder, are and shall be subject and subordinate to the mortgage and to all of the terms and conditions contained therein, and to any renewals, modifications, increases, replacements, consolidations and extensions of the indebtedness secured thereby.

2. Lender consents to the Sublease, the Original Assignment and the IDX Assignment. In the event of foreclosure of said mortgage, or in the event Lender comes into possession or acquires title to the Premises as a result of the enforcement or foreclosure of the mortgage or mortgage note, or as a result of any other means, Lender agrees to recognize Subtenant notwithstanding any termination of the subleasehold interest held by Subtenant resulting from any termination of the leasehold interest of Sublandlord in that certain Lease Agreement between Sublandlord, as tenant (in such capacity "BBC") and Borrower dated as of November 3, 2009 (together with all amendments, supplements, exhibits and modifications thereto, the "Master Lease"); provided that Subtenant shall attorn to Lender as landlord under

MEMORANDUM OF LEASE AND SUBORDINATION AGREEMENT
12187-2385/LEGAL19558610.3
12/1/10

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the terms of the Master Lease as described in Paragraph 3 below. Lender further agrees that Subtenant shall not be disturbed in its possession of the Premises for any reason other than one which would entitle the Sublandlord to terminate the Sublease under its terms or would cause, without further action by such Sublandlord, the termination of the Sublease or would entitle such Sublandlord to dispossess the Subtenant from the Premises.

3. Subtenant agrees with Lender that (a) if the interests of Sublandlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or by any other manner, Subtenant shall be bound to Lender under all of the terms, covenants and conditions of the Sublease for the balance of the term remaining and any extensions or renewals thereof which may be affected in accordance with any option therefor in the Sublease, and (b) if the sublease interests of Subtenant under the Sublease is terminated by reason of the termination of Sublandlord's leasehold interest in the Master Lease by foreclosure or other proceedings brought by Lender against Borrower, or by any other manner, the Sublease shall survive and Subtenant shall be bound to Lender under all of the terms, covenants and conditions of the Sublease for the balance of the term remaining and any extensions or renewals thereof which may be affected in accordance with any option therefor in the Sublease, each with the same force and effect as if Lender were the Sublandlord under the Sublease, and Subtenant does hereby attorn to Lender as its Sublandlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of the Sublandlord in the Premises. In each case described in clause (a) and (b) above, Subtenant and Lender may mutually agree to enter into a new lease agreement on terms and conditions acceptable to both Lender and Subtenant. Subtenant agrees upon the election of and written demand by Lender after Lender receives title to the Premises, to promptly execute an instrument in confirmation of the foregoing provisions, satisfactory to Lender, in which Subtenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

4. Subtenant agrees with Lender that if Lender shall succeed to the interest of master landlord under the master lease for the Premises (the "Master Lease"), or Sublandlord under the Sublease, Lender shall not be (a) liable for any action or omission of any prior landlord under the Master Lease or Sublease, or (b) subject to any offsets or defenses which Subtenant might have against any prior landlord, or (c) bound by any rent or additional rent which Subtenant might have paid for more than the current month to any prior landlord, or (d) bound by any security deposit which Subtenant may have paid to any prior landlord, unless such deposit is in an escrow fund available to Lender, or (e) bound by any amendment or modification of the Sublease made after the date of this Memorandum without Lender's consent, or (f) bound by any provision in the Sublease which obligates the Sublandlord to erect or complete any building or to perform any construction work or to make any improvements to the Premises other than any repair obligations of Sublandlord set forth in the Sublease, or (g) liable for or incur any obligation with respect to any breach of warranties or



representations of any nature under the Master Lease, Sublease or otherwise, including, without limitation, any warranties, or representations respecting use, compliance with zoning, landlord's title, landlord's authority, habitability and/or fitness for any purpose or possession, or (h) liable for consequential damages. Subtenant further agrees with Lender that Subtenant will not voluntarily subordinate the Sublease to any lien or encumbrance without Lender's consent. Nothing herein shall be construed to limit any claims or causes of action Subtenant may have against Sublandlord or Master Landlord with respect to any of the above.

5. In the event that the Sublandlord shall default in the performance or observance of any of the terms, conditions or agreements in the Sublease or Master Lease, Subtenant shall give written notice thereof to the Lender and the Lender shall have the right (but not the obligation) to cure such default. Subtenant shall not take any action with respect to such default under the Sublease, including and without limitation, any action in order to terminate, rescind or void the Sublease or to withhold any rental thereunder for a period of 10 days after receipt of such written notice thereof by the Lender with respect to any such default capable of being cured by the payment of money and for a period of 30 days after receipt of such written notice thereof by the Lender with respect to any other such default; provided, that in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured within such thirty 30-day period because of the nature of such default or because Lender requires time to obtain possession of the Premises in order to cure the default, if Lender shall proceed promptly to attempt to obtain possession of the Premises, where possession is required, and to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such reasonable period as may be necessary to complete the curing of the same with diligence and continuity.

6. Subtenant agrees with Lender that Subtenant's estate in the Premises shall not be conveyed or encumbered without the written consent of the Lender so long as the Sublease is in effect.

7. Sublandlord and Subtenant hereby covenant and agree with Lender as follows:

(a) The Sublease has been properly executed and delivered by Subtenant, is valid and binding upon Subtenant, has not been modified, and is in full force and effect;

(b) There exist no defaults under the terms of the Sublease by Sublandlord or Subtenant;

(c) Subtenant has not paid any rental to Sublandlord more than one month in advance and Sublandlord holds no security deposit for Subtenant except \$_____;

(d) Subtenant has no defense, claim of lien or offset, under the Sublease or against the rental payable thereunder; and



(e) Subtenant has no claims to or interest in the Premises, legal or equitable, or any contract or option therefore, other than as a tenant under the Sublease.

Subtenant hereby agrees that it will promptly notify Lender in writing of and when any of the above conditions should become untrue or incorrect in any material respect.

8. This Agreement shall bind and inure to the benefit of all parties hereto, their successors and assigns. As used herein the term "Subtenant" shall include the Subtenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Sublandlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure, and the word "Lender" shall include the Lender herein specifically named and any of its successors and assigns, including anyone who shall succeed to Sublandlord's interest in the Premises by, through or under foreclosure of the mortgage.

9. This Agreement shall not be modified or amended except in writing signed by the parties hereto.

10. The use of the neuter gender in this Agreement shall be deemed to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

11. Notwithstanding any of the other provisions hereof, this Agreement is not intended to create and shall not be deemed to create any personal liability on the part of tenant for repayment of the loan secured by the mortgage.

[SIGNATURE PAGE FOLLOWS]



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IN WITNESS WHEREOF the parties hereto have placed their hands and seals the day and year first above written.

Sublandlord:

BBC BIOCHEMICAL CORPORATION, a
Washington corporation

By: Adrian Biesecker
Name: Adrian Biesecker
Title: President

Subtenant:

LABORATORY CORPORATION OF
AMERICA, a Delaware corporation

By: _____
Name: _____
Title: _____

Lender:

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE TO MEMORANDUM OF SALE AND SUBORDINATION AGREEMENT]



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Skagit County Auditor

IN WITNESS WHEREOF the parties hereto have placed their hands and seals the day and year first above written.

Sublandlord:

BBC BIOCHEMICAL CORPORATION, a
Washington corporation

By: _____
Name: _____
Title: _____

Subtenant:

LABORATORY CORPORATION OF
AMERICA, a Delaware corporation

By: Mike Archer
Name: MIKE ARCHER
Title: SVP
see attached loose cert.

Lender:

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE TO MEMORANDUM OF LEASE AND SUBORDINATION AGREEMENT]



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IN WITNESS WHEREOF the parties hereto have placed their hands and seals the day and year first above written.

Sublandlord:

BBC BIOCHEMICAL CORPORATION, a
Washington corporation

By: _____
Name: _____
Title: _____

Subtenant:

LABORATORY CORPORATION OF
AMERICA, a Delaware corporation

By: _____
Name: _____
Title: _____

Lender:

U.S. BANK NATIONAL ASSOCIATION

By: JOHN K BORLAND
Name: JK Borland
Title: VICE PRESIDENT

[SIGNATURE PAGE TO MEMORANDUM OF LEASE AND SUBORDINATION AGREEMENT]

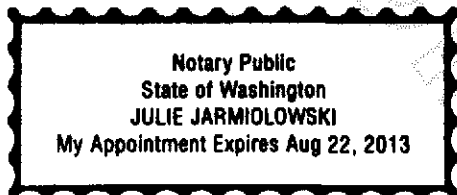


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STATE OF WASHINGTON)
COUNTY OF SKAGIT) ss.

I certify that I know or have satisfactory evidence that ADRIAN BIESSECKER is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the PRESIDENT of BBC BIOCHEMICAL CORPORATION, a Washington corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 11/23, 2010.



Julie J.
(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of
Washington, residing at: SNOHOMISH County
My appointment expires: 8/22/13.

[SIGNATURE PAGE TO MEMORANDUM OF LEASE AND SUBORDINATION AGREEMENT]



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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Los Angeles

On

12/10/10

Date

before me,

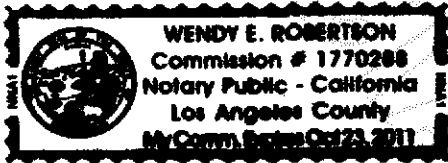
Wendy Robertson, Notary Public

Here Insert Name and Title of the Officer

personally appeared

Mike Aicher

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature

Wendy Robertson

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name:

- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



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STATE OF WASHINGTON)
COUNTY OF KING) ss.

I certify that I know or have satisfactory evidence that John Borlino is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the Vice President of U.S. BANK NATIONAL ASSOCIATION, a national banking association, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: Nov. 24, 2010.

A. Monique Schmitt-Johnson

(Signature of Notary)

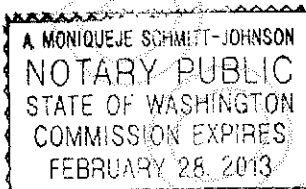
A. MONIQUEJE SCHMITT-JOHNSON

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of

Washington, residing at: Seattle, WA.

My appointment expires: 2-28-2013.



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[SIGNATURE PAGE TO MEMORANDUM OF LEASE AND SUBORDINATION AGREEMENT]

EXHIBIT A
to Memorandum of Lease and Subordination Agreement

LEGAL DESCRIPTION

The Land is located in Skagit County, Washington and is legally described as follows:

LOT 4 "PLAT OF REO FAMILY PROPERTIES, LLC", RECORDED JULY
7, 2006, UNDER AUDITOR'S FILE NO.

200607070069, RECORDS OF SKAGIT COUNTY, WASHINGTON.

