

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

The Guardian Life Insurance Company
of America
7 Hanover Square
23rd Floor - B
New York, New York 10003

Attention: Rose Policastro
Legal Department



0010038588

SUBORDINATION NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") executed on this 3rd day of January, 2001 between The Guardian Life Insurance Company of America, a New York corporation, and its successors and/or assignees ("Mortgagee"), TDC Niles LLC, a limited liability corporation ("Landlord") and OFFICE DEPOT, INC., a Delaware corporation ("Tenant").

WITNESSETH:

WHEREAS, TDC Niles LLC ("Landlord") has entered into a certain lease ("Lease") with Tenant dated August 2, 1999 relating to certain premises located in the County of Cook, City of Niles, State of Illinois ("Premises"), said Premises being more particularly described in said Lease and being situated on a portion of the real property described in EXHIBIT A attached hereto and made a part hereof; and

WHEREAS, Mortgagee has committed to make a mortgage loan to Landlord secured by a Mortgage ("Mortgage") covering the Premises;

NOW, THEREFORE, it is mutually agreed as follows:

1. Except as provided in this Agreement, the Lease is and shall be subject and subordinate to the Mortgage and to all renewals, modifications, consolidations, replacements and extensions of the Mortgage.
2. In the event of a foreclosure of the Mortgage or should Mortgagee obtain title by deed in lieu thereof, or otherwise, Mortgagee, for itself, its successors or assigns (which shall include any persons acquiring title by voluntary deed, assignment or other disposition or transfer in lieu of foreclosure), agrees that Tenant may continue its occupancy of the Premises in accordance with the terms and provisions of the Lease, so long as Tenant is not in default under the Lease beyond any applicable notice and cure period, Mortgagee agrees not to name Tenant as a party defendant in any foreclosure action, unless required by state law.
3. Tenant agrees to attorn to: (a) Mortgagee when in possession of the Premises; (b) a receiver appointed in an action or proceeding to foreclose the Mortgage or otherwise; or (c) to any party acquiring title to the Premises as a result of foreclosure of the Mortgage or deed in lieu thereof. Tenant further covenants and agrees to execute and deliver, upon request of

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Mortgagee, or its assigns, an appropriate agreement of attornment, in form and content reasonably acceptable to Tenant and Mortgagee (but which shall not amend the terms of the Lease or otherwise diminish Tenant's rights thereunder) with any subsequent titleholder of the Premises.

4. So long as the Mortgage on the Premises remains outstanding and unsatisfied, Tenant will deliver to Mortgagee a copy of all notices of default given to Landlord by Tenant. At any time before the rights of Landlord shall have been forfeited or adversely affected because of any default under the Lease as therein provided, Mortgagee shall have the right (but not the obligation) to cure such default within thirty (30) days after the expiration of the cure period allowed to Landlord under the Lease.

5. If Mortgagee shall succeed to the interest of Landlord under the Lease, Mortgagee shall be bound to Tenant under all the terms, covenants and conditions of the Lease, and Tenant shall, from and after Mortgagee's succession to the interest of Landlord under the Lease, have the same remedies against Mortgagee for the breach of an agreement contained in the Lease that Tenant might have had under the Lease against Landlord if Mortgagee had not succeeded to the interest of Landlord; provided further, however, that Mortgagee shall not be:

(a) liable for any warranty, act or omission of any prior landlord (including Landlord), except those of a continuing nature;

(b) subject to any offsets or defense which Tenant might have against any prior landlord (including Landlord), except (i) offsets specifically provided for in the Lease, or (ii) those which arose out of such Landlord's default under the Lease and accrued after Tenant has notified Mortgagee and given Mortgagee an opportunity to cure as provided in Paragraph 4 above; or

(c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or

(d) bound by any material amendment or modification of the Lease or any collateral agreement made without Mortgagee's consent.

6. Mortgagee consents to the application and disposition of casualty proceeds and condemnation awards in accordance with Article 10 of the Lease,

7. Anything herein or in the Lease to the contrary notwithstanding, in the event that Mortgagee shall acquire title to the Property and succeed to the interest of Landlord under the Lease, Mortgagee shall have no obligation, nor incur any liability, beyond Mortgagee's then interest, if any, in the Property and Tenant shall look exclusively to such interest, if any, of Mortgagee in the Property for the payment and discharge of any obligation imposed upon Mortgagee hereunder, and Mortgagee is hereby released or relieved of any other liability hereunder and under the Lease. Tenant agrees that, with respect to any money judgment which may be obtained or secured by Tenant against Mortgagee, Tenant shall look solely to the estate or interest owned by Mortgagee in the Property, and Tenant will not collect or attempt to collect any such judgment out of any other assets of Mortgagee.

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8. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns (which shall include any persons acquiring title by voluntary deed, assignment or other disposition or transfer in lieu of foreclosure) of the parties.

9. Any notices under this Agreement may be delivered by hand or sent by commercial delivery services or United States Postal Service express mail, in either case for overnight delivery with proof of service, or sent by certified mail, return receipt requested, to the following addresses:

To Tenant: Office Depot. Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention; Vice President-Real Estate

To Lender: The Guardian Life Insurance Company of America
7 Hanover Square
20th Floor-C
New York, New York 10004
Attention: Celeste P. Stinston
Real Estate Investment

With a copy to: Vice President, Investment and Real Estate Counsel
Law Department
At the address immediately above written except to:
23rd Floor - B

To Landlord: Tucker Development Corporation
513 Central Avenue
Highland Park, Illinois 60035

With a copy to: Martin Becker Esq.
Becker & Gurian
Highland Park, Illinois 60035

The notice shall be deemed to have been given on the date it was actually received.

10. This Agreement may be executed and delivered in counterparts for the convenience of the parties.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below their respective signatures,

Signed, sealed and delivered
In the presence of:

MORTGAGEE:



The Guardian Life Insurance Company of
America, a New York corporation

By: *Celeste P. Stinson*
Print Name: **CELESTE P. STINSON**
Print Title: **Second Vice President, Real Estate**
Date: *January 4, 2001*

TENANT:

OFFICE DEPOT, INC.,
a Delaware corporation

By: *Pilar L. Bosch*
Print Name: **PILAR L. BOSCH**
Print Title: **Vice President Real Estate - Legal**
Date: *January 3, 2001*

LANDLORD:

TDC Niles, LLC, an Illinois limited liability
company

By:
Print Name:
Print Title:
Date:

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below their respective signatures,

Signed, sealed and delivered
In the presence of:

MORTGAGEE:

The Guardian Life Insurance Company of
America, a New York corporation

By: _____
Print Name: _____
Print Title: _____
Date: _____

TENANT:

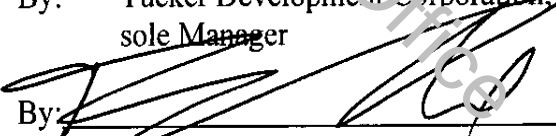
OFFICE DEPOT, INC.,
a Delaware corporation

By: _____
Print Name: _____
Print Title: _____
Date: _____

LANDLORD:

TDC Niles, LLC, an Illinois limited liability
company

By: Tucker Development Corporation, its
sole Manager

By:  _____
Print Name: Richard H. Tucker
Print Title: President
Date: _____

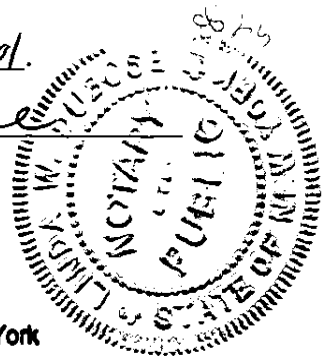
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STATE OF New York)
) SS:
COUNTY OF New York)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Celeste P. Stinson whose name as Second Vice President of The Guardian Life Insurance Company of America, a _____ corporation, is signed to the foregoing instrument, who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 4th day of January, 2001.

Linda W. Dubose
Notary Public
State of New York
My Commission expires:



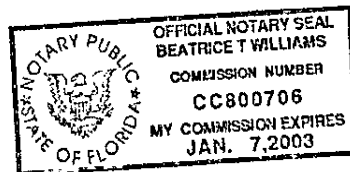
LINDA W. DUBOSE
Notary Public, State of New York
No. 01DU6012297
Qualified in Queens County
Commission Expires August 24, 2002

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

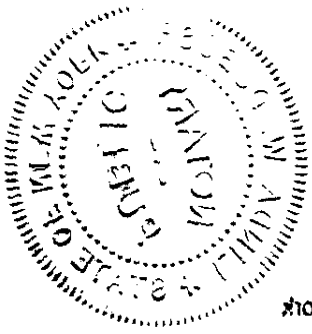
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Pilar L. Bosch, whose name as Vice President Real Estate-Legal of OFFICE DEPOT, INC., a Delaware corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 3rd day of January, 2001.

Beatrice Williams
Notary Public
State of Florida
My Commission expires:



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Commission Expires August 31, 2015
Qualified in Cook County
Notary Public, State of New York
LINDA W. DIBOSE

Property of Cook County Clerk's Office

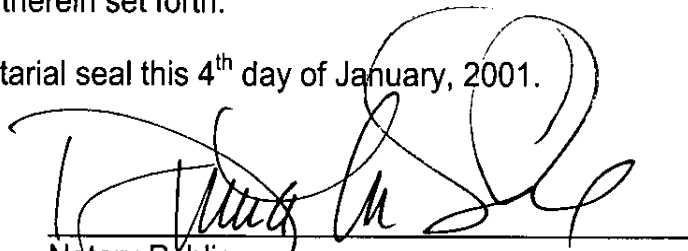
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STATE OF ILLINOIS

COUNTY OF COOK

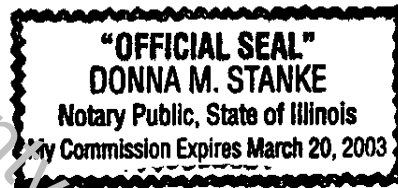
I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that RICHARD H. TUCKER, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President of Tucker Development Corporation, an Illinois corporation, the sole Manager of TDC Niles, L.L.C., an Illinois limited liability company, appeared before me and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation and limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 4th day of January, 2001.



Notary Public

My Commission Expires:



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LEGAL DESCRIPTION

LOTS 2, 3, 4, 5, 6, 7, 9 AND 10 IN POINTE PLAZA SUBDIVISION, BEING A SUBDIVISION OF LOT 2 IN ANNIE MULLEN SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 22, 1999 AS DOCUMENT NUMBER 09188471, IN COOK COUNTY, ILLINOIS.

Property #; 10-29-403-019-0000

10-29-403-021-0000

10-29-403-022-0000

Property of Cook County Clerk's Office