

# UNOFFICIAL COPY

CF PB LENDER, LLC,  
(Lender)

- and -

GENERAL AUTOMATION, INC., an Illinois corporation  
(Tenant)

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2002-03-13 12:16:57  
Cook County Recorder 37.50

SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT



0020287288

Date: March 7, 2002

Location: 3300 Oakton Street  
Skokie, Illinois

PREPARED BY AND UPON  
RECORDATION RETURN TO:

FREEMAN, MERMALL & TUBMAN  
Two North LaSalle Street, Suite 800  
Chicago, Illinois 60602  
312/346-5692  
Attention: Rogene V. Tubman

File No.: 3208

1st AMERICAN TITLE order #

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## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made as of the ~~7th~~<sup>12th</sup> day of March, 2002 by and between **CF PB LENDER, LLC**, an Illinois limited liability company having an address at Two North LaSalle Street, Suite 800, Chicago, Illinois 60602 ("Lender") and **GENERAL AUTOMATION, INC.**, an Illinois corporation, having an address at 3300 Oakton Street, Skokie, Illinois ("Tenant").

### RECITALS:

A. Lender is the present owner and holder of a certain mortgage and security agreement (the "Security Instrument") dated March 7, 2002, given by Landlord (defined below) to Lender which encumbers the fee simple estate of Landlord in certain premises described in Exhibit A attached hereto (the "Property") and which secures the payment of certain indebtedness owed by Landlord to Lender evidenced by a certain promissory note dated March 7, 2002, given by Landlord to Lender (the "Note");

B. Tenant is the holder of a leasehold estate in a portion of the Property under and pursuant to the provisions of a certain lease dated ~~November 12, 2001~~<sup>March 12, 2002</sup> between 3300 Oakton LLC, an Illinois limited liability company, as landlord ("Landlord") and Tenant, as tenant (the "Lease"); and

C. 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:

For good and valuable consideration, Tenant and Lender agree as follows:

1. SUBORDINATION. The Lease and all of the terms, covenants and provisions thereof and all rights, remedies and options of Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the terms, covenants and provisions of the Security Instrument and to the lien thereof, including without limitation, all renewals, increases, modifications, spreads, consolidations, replacements and extensions thereof and to all sums secured thereby and advances made thereunder with the same force and effect as if the Security Instrument had been executed, delivered and recorded prior to the execution and delivery of the Lease.

2. NON-DISTURBANCE. If any action or proceeding is commenced by Lender for the foreclosure of the Security Instrument or the sale of the Property, Tenant shall not be named as a party therein unless such joinder shall be required by law, provided, however, such joinder shall not result in the termination of the Lease or disturb the Tenant's possession or use of the premises demised thereunder, and the sale of the Property in any such action or proceeding and the exercise by Lender of any of its other rights under the Note or the Security Instrument shall be made subject to all rights of Tenant under the Lease, provided that at the time of the commencement of any such action or proceeding or at the time of any such sale or exercise of any such other rights (a) the term of the Lease shall have commenced pursuant to the provisions thereof, (b) intentionally omitted, (c) the Lease shall be in full force and effect and (d) Tenant shall not be in default under any of the terms, covenants or conditions of the Lease or of this Agreement on Tenant's part to be observed or performed.

3. ATTORNMENT. If Lender or any other subsequent purchaser of the Property shall become the owner of the Property by reason of the foreclosure of the Security Instrument or the acceptance of a deed or assignment in lieu of foreclosure or by reason of any other enforcement of the Security Instrument (Lender or such other purchaser being hereinafter referred as "Purchaser"), and the conditions set forth in Section 2 above have been met at the time Purchaser becomes owner of the Property, the Lease shall not be terminated or affected thereby but shall continue in full force and effect as a direct lease between Purchaser and Tenant upon all of the terms, covenants and conditions set forth in the Lease and in that event, Tenant agrees to attorn to Purchaser and Purchaser by virtue of such acquisition of the Property shall be deemed to have agreed to accept such attornment, provided, however, that Purchaser shall not be (a) liable for the failure of any prior landlord (any such prior landlord, including Landlord and any successor landlord, being hereinafter referred to as a "Prior Landlord") to perform any of its

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Handwritten initials: RD M/A

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obligations under the Lease which have accrued prior to the date on which Purchaser shall become the owner of the Property, provided that the foregoing shall not limit Purchaser's obligations under the Lease to correct any conditions that (i) existed as of the date Purchaser shall become the owner of the Property and (ii) violate Purchaser's obligations as landlord under the Lease; provided further, however, that Purchaser shall have received written notice of such omissions, conditions or violations and has had a reasonable opportunity to cure the same, all pursuant to the terms and conditions of the Lease, (b) subject to any offsets, defenses, abatement or counterclaims which shall have accrued in favor of Tenant against any Prior Landlord prior to the date upon which Purchaser shall become the owner of the Property, (c) liable for the return of rental security deposits, if any, paid by Tenant to any Prior Landlord in accordance with the Lease unless such sums are actually received by Purchaser, (d) bound by any payment of rents, additional rents or other sums which Tenant may have paid more than one (1) month in advance to any Prior Landlord unless (i) such sums are actually received by Purchaser or (ii) such prepayment shall have been expressly approved of by Purchaser or (e) bound by any agreement terminating or amending or modifying the rent, term, commencement date or other material term of the Lease, or any voluntary surrender of the premises demised under the Lease, made without Lender's or Purchaser's prior written consent prior to the time Purchaser succeeded to Landlord's interest. In the event that any liability of Purchaser does arise pursuant to this Agreement, such liability shall be limited and restricted to Purchaser's interest in the Property and shall in no event exceed such interest.

4. NOTICE TO TENANT. After notice is given to Tenant by Lender that the Landlord is in default under the Note and the Security Instrument and that the rentals under the Lease should be paid to Lender pursuant to the terms of the assignment of leases and rents executed and delivered by Landlord to Lender in connection therewith, Tenant shall thereafter pay to Lender or as directed by the Lender, all rentals and all other monies due or to become due to Landlord under the Lease and Landlord hereby expressly authorizes Tenant to make such payments to Lender and hereby releases and discharges Tenant from any liability to Landlord on account of any such payments.

5. NOTICE TO LENDER AND RIGHT TO CURE. Tenant shall notify Lender of any default by Landlord under the Lease and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation thereof or of an abatement shall be effective unless Lender shall have received notice of default giving rise to such cancellation or abatement 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. Notwithstanding the foregoing, Lender shall have no obligation to cure any such default.

6. NOTICES. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof and confirmed by telephone by sender, (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 as follows:

If to Tenant: General Automation, Inc., an Illinois corporation  
3300 Oakton Street  
Skokie, Illinois  
Attention: *President*  
Facsimile No. *847-676-2213*

If to Lender: CF PB Lender, LLC  
Two North LaSalle Street  
Suite 800  
Chicago, Illinois 60602  
Attention: Mr. Frank Sullivan  
Facsimile No. (312) 346-6669

or addressed as such party may from time to time designate by written notice to the other parties. For purposes of this Section 7, the term "Business Day" shall mean a day on which commercial banks are not authorized or required

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by law to close in the state where the Property is located. Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

7. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of Lender, Tenant and Purchaser and their respective successors and assigns.

8. GOVERNING LAW. This Agreement shall be deemed to be a contract entered into pursuant to the laws of the State where the Property is located and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State where the Property is located.

9. MISCELLANEOUS. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto. If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such provision. 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. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

[NO FURTHER TEXT ON THIS PAGE]

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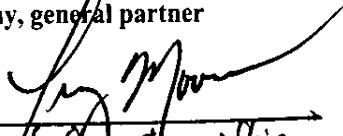
IN WITNESS WHEREOF, Lender and Tenant have duly executed this Agreement as of the date first above written.

**LENDER:**

**CF PB LENDER, LLC, an Illinois limited liability company**

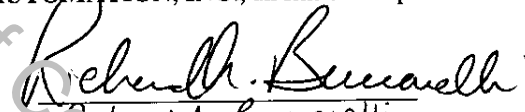
By: **COHEN FINANCIAL, L.P., a Delaware limited partnership,  
Managing Member**

By: **COHEN FINANCIAL, L.L.C., a Delaware limited liability  
company, general partner**

By:   
Its: Chief Operating Officer

**TENANT:**

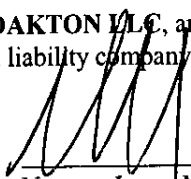
**GENERAL AUTOMATION, INC., an Illinois corporation**

By:   
Name: Richard A. Buccarelli  
Title: VP

The undersigned accepts and agrees to the provisions of Section 4 hereof:

**LANDLORD:**

**3300 OAKTON LLC, an Illinois  
limited liability company**

By:   
Norman Lynn, Manager

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Rose T. Kendall, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Terry Moore, personally known to me to be the Chief Operating Officer of Cohen Financial, L.L.C., general partner of Cohen Financial, L.P., Managing Member of CF PB Lender, LLC, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such officer, he signed and delivered the said Instrument of writing as Chief Operating Officer of said limited liability company, as his free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 12th day of March, 2002.

Rose T. Kendall  
Notary Public



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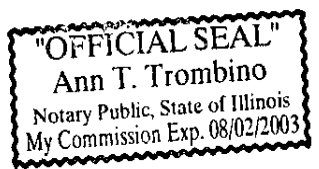
STATE OF NEW JERSEY )  
 ) SS.  
COUNTY OF MONMOUTH )

I Ann T. Trombino, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Richard A. Buccarilli, personally known to me to be the (Vice) President of General Automation, Inc., and \_\_\_\_\_, personally known to me to be the (Assistant) Secretary of said Corporation, whose names are subscribed to the within instrument, appeared before me this day in person and severally acknowledged that as such (Vice) President and (Assistant) Secretary, they signed and delivered the said Instrument of writing as (Vice) President and (Assistant) Secretary of said Corporation and caused the corporate seal of said Corporation to be thereunto affixed, as their free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11 day of March, 2002

Ann T. Trombino  
Notary Public

My Commission expires: 8/2/03



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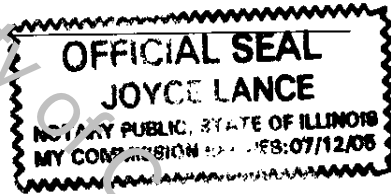
STATE OF ILLINOIS )  
COUNTY OF COOK ) ) SS.

I, JOYCE LANCE, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Norman Lynn is personally known to me to be the Manager of 3300 OAKTON LLC, an Illinois limited liability company, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such Manager he signed and delivered the said Instrument of writing for said limited liability company as his free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11<sup>TH</sup> day of March, 2002.

Joyce Lance  
Notary Public

My Commission expires: \_\_\_\_\_



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EXHIBIT A

(Description of Property)

THE WEST 350.00 FEET OF THE EAST 1,010.00 FEET OF THE NORTH 462.48 FEET OF THE SOUTH 502.48 FEET AS MEASURED ALONG THE SECTIONAL DIVISION LINES OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 3300 Oakton Street, Skokie, IL  
Tax Identification Number: 10-23-406-031

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