

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made and entered into as of the 15 day of June, 1993, by and between Donald Ogiivie ("Tenant") and NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION, a New York corporation ("Lender"), whose address is 51 Madison Avenue, New York, New York.

- A. Lender has made a mortgage loan (the "Loan") to American National Bank and Trust Company of Chicago, a national banking association, not personally, but as Trustee under Trust Agreement dated May 26, 1987 and known as Trust No. 67628 (the "Borrower") in the amount of \$24,450,000.00 to be secured by a mortgage or deed of trust (said mortgage or deed of trust and any and all amendments thereto being referred to as the "Deed of Trust") on the real property legally described in Exhibit "A" attached hereto (the "Premises"); and
- B. Tenant is the present lessee under a lease dated July 15, 1988 made by Borrower, as Landlord, demising a portion of the Premises and other property (said lease and all amendments thereto being referred to as the "Lease"); and
- C. The loan terms require that Tenant subordinate the Lease and its interest in the Premises in all aspects to the lien of the Deed of Trust and that Tenant attorn to Lender.
- D. In return, Lender is agreeable to not disturbing Tenant's possession of the portion of the Premises covered by the Lease (the "Demised Premises"), so long as Tenant is not in default under the Lease;

NOW, THEREFORE, the parties hereby agree as follows:

1. Subordination. The lease, and the rights of Tenant in, to and under the Lease and the Demised Premises, are hereby subjected and subordinated to the lien of the Deed of Trust and to all of the terms, conditions and provisions thereof.

2. Tenant Not to be Disturbed. So long as Tenant is not in default in the payment of rent or of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, (a) Tenant's possession of the Demised Premises, shall not be diminished or interfered with by Lender, and (b) Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Deed of Trust unless such joinder is necessary to foreclose the Deed of Trust and then only for such purpose and not for the purpose of terminating the Lease.

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3. Tenant to Attorn to Lender. If Lender shall become the owner of the Premises or the Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Deed of Trust or the Premises shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct lease between the then owner of the Premises, who shall succeed to the rights and duties of the Landlord and Tenant except that the provisions of the Deed of Trust shall be deemed to survive and govern with respect to the disposition of insurance proceeds and condemnation or eminent domain awards. Tenant shall attorn to Lender or any other such owner as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments.

4. Notice of Discharge. Borrower shall give notice to Tenant of the reconveyance or other release of the Deed of Trust within 30 days of the date the reconveyance or other release is recorded.

5. Successors and Assigns. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto and their representatives, successors and assigns.

6. Limitations. In the event Lender or such other purchaser exercises its option of attornment as provided in Paragraph 3 above, Tenant shall observe and perform: (i) each of the terms, covenants and conditions of the Lease that Lender or such other purchaser designates be observed and performed, and (ii) such other terms, covenants and conditions to which the parties may agree. It is further agreed that Lender or such other purchaser shall not be:

a. liable for any act or omission of any prior landlord (including Landlord); or

b. obligated to cure any defaults of any prior landlord (including Landlord) which occurred prior to the time that Beneficiary of such other purchaser succeeded to the interest of such prior landlord under the Lease; or

c. subject to any offsets or defenses which Tenant may be entitled to assert against any prior landlord (including Landlord); or

d. bound by any payment of rent or additional rent by Tenant to any prior landlord (including Landlord) for more than one month in advance; or

e. bound by any amendment or modification of the Lease made without the written consent of Lender or such other purchaser; or

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f. liable or responsible for or with respect to the retention, application and/or return to Tenant of any security deposit paid to any prior landlord (including Landlord), whether or not still held by such prior landlord, unless and until Lender or such other purchaser has actually received for its own account as landlord the full amount of such security deposit; or

g. liable or responsible for or obligated to pay any brokerage fees required to be paid pursuant to the terms of the lease.

7. Notices. Tenant will notify Lender at the aforesaid address, by registered or certified mail, return receipt requested, of any default of Landlord which would entitle Tenant to cancel the Lease or abate the rent payable thereunder, and agrees that, notwithstanding any provision of the Lease, no notice of cancellation thereof, nor any abatement, shall be effective unless Lender has failed within 30 days of the receipt by Lender of such notice to cure or, if the default cannot be cured within 30 days, has failed to commence and to diligently prosecute the cure of Landlord's default which gave rise to such right of cancellation or abatement.

8. In the event the Lease contains a section entitled Section 7.3 Prohibited Businesses, Tenant acknowledges and consents to the existing improvement on Outlot 6 of the Shopping Center (as defined in the Lease).

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

LENDER:

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

By:

Patricia J. [Signature] LMS  
Its Real Estate Vice President

TENANT:

Donald Ogilvie

By:

Donald Ogilvie  
Its Managing Director

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BORROWER:

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, not  
individually but solely as Trustee  
under Trust No. 102624-00

By:  Gregory S. Karp  
Its: \_\_\_\_\_

Property of Cook County Clerk's Office

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STATE OF NEW YORK )  
 ) ss.  
COUNTY OF NEW YORK )

On this 7<sup>th</sup> day of July, 1993 before me personally appeared PATRICIA J HUDSON, to me known to be the Real Estate Vice President of NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand the day and year first above written.

Walter J. Fuchs (Handwritten)  
Notary Public  
WALTER J. FUCHS  
Notary Public, State of New York  
No. 4849386  
Qualified in New York County  
Commission Expires 7/1/94

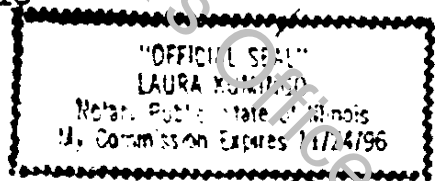
ILLINOIS )  
STATE OF ILLINOIS ) ss.  
COUNTY OF COOK )

On this 09<sup>th</sup> day of July, 1993 before me personally appeared Gregory S. Kasprzyk, to me known to be the ASSISTANT SECRETARY of National National Bank and Trust Company of Chicago, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand the day and year first above written.

Laura M. Larson (Handwritten)  
Notary Public

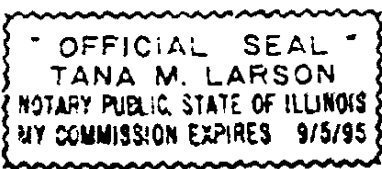
STATE OF IL )  
 ) ss.  
COUNTY OF Cook )



On this 21<sup>st</sup> day of June, 1993 before me personally appeared Donald Caprice, to me known to be the Tenant of Hawthorne Lakes Shopping Center, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand the day and year first above written.

Tana M. Larson (Handwritten)  
Notary Public



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## EXHIBIT A - LEGAL DESCRIPTION

### Parcel 1:

That part of a tract of land (hereinafter designated Tract "X") in the West 1/2 of the Northwest 1/4 of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, lying Northerly of a line hereinafter designated Line "A", said Line "A" being described as follows:

Commencing at the point of intersection of the East line of South Cicero Avenue (being a line 33.00 feet East of and parallel with the West line of said Northwest 1/4) and the South line of Cermak Road (being a line 75.00 feet South of and parallel with the North line of said Northwest 1/4); thence South 0 degrees 02 minutes 01 seconds East, along the East line of South Cicero Avenue, 1026.38 feet to the point of beginning of the aforesaid Line "A"; thence North 24 degrees 57 minutes 59 seconds East, along a line drawn perpendicular to the East line of South Cicero Avenue, a distance of 796.67 feet; thence Northeasterly 78.54 feet along the arc of a circle, tangent to the last described line, convex to the Southeast, having a radius of 50.00 feet, and whose chord bears North 44 degrees 57 minutes 59 seconds East 70.71 feet to a point of tangency; thence North 0 degrees 02 minutes 01 seconds West 88.03 feet; thence Northeasterly 78.54 feet along the arc of a circle, tangent to the last described line, convex to the Northwest, having a radius of 50.00 feet, and whose chord bears North 44 degrees 57 minutes 59 seconds East 70.71 feet to a point of tangency; thence North 89 degrees 57 minutes 59 seconds East 216.60 feet; thence North 0 degrees 02 minutes 01 seconds West 138.52 feet; thence North 89 degrees 57 minutes 59 seconds East 63.91 feet to the East line of the hereinabove designated Tract "X" (Tract "X" being described as follows:

That part of the West 1/2 of the Northwest 1/4 of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, bounded and described as follows:

Beginning at the point of intersection of the East line of South Cicero Avenue, being a line 33.00 feet East of and parallel with the West line of said Northwest 1/4, and the South line of Cermak Road, being a line 75.00 feet South of and parallel with the North line of said Northwest 1/4; thence South 89 Degrees 42 Minutes 07 Seconds East along said South line of Cermak Road, 1178.45 feet to the Northeast corner of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded April 9, 1919 as Document No. 6497655, said Northeast corner being 1.47 feet East of a point in said South line of Cermak Road which is 120.00 feet West of the East line of the West 1/2 of said Northwest 1/4; thence South 0 Degrees 04 Minutes 10 Seconds West along the East line of said parcel conveyed by deed recorded as Document No. 6497655, a distance of 1119.66 feet to the Easterly corner of said parcel, said Easterly corner being 13.21 feet East of the West line of land conveyed to Manufacturers' Junction Railway Company by deed recorded August 5, 1904 as Document No. 3575104 (said West line being a line drawn from a point in the South line of Cermak Road which is 87.00 feet West of the West line of the right of way of the Chicago and Western Indiana Railroad to a

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## EXHIBIT A - LEGAL CONTINUED

point in the North line of Ogden Avenue which is 100.00 feet Westerly of the West line of said railroad, as measured on the North line of said Ogden Avenue); thence South 12 Degrees 24 Minutes 06 Seconds West along the Southeasterly line of the aforesaid parcel conveyed by deed recorded as Document No. 6497655, a distance of 64.97 feet to the Southerly corner thereof, being also the Northerly corner of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded April 9, 1919 as Document No. 6497655 (said Northerly corner being a point 1181.20 feet South of the South line of Cermak Road and on the West line of the aforesaid land conveyed by deed recorded as Document No. 3575104); thence South 13 Degrees 22 Minutes 57 Seconds West along the Northwesterly line of said parcel conveyed by deed recorded as Document No. 6497656, a distance of 3.60 feet to the Southwest corner thereof; thence North 89 Degrees 42 Minutes 53 Seconds East along the South line of said parcel conveyed by deed recorded as Document No. 6497656, a distance of 0.77 feet to the Southeast corner thereof, (said Southeast corner being a point 1186.60 feet South of the South line of Cermak Road and on the West line of the aforesaid land conveyed by deed recorded as Document No. 3575104); thence South 6 Degrees 40 Minutes 12 Seconds West along the West line of the aforesaid land conveyed by deed recorded as Document No. 3575104, a distance of 3.55 feet to the Northeast corner of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded April 25, 1907 as Document No. 4025197; thence South 89 Degrees 57 Minutes 59 Seconds West along the North line of said parcel conveyed by deed recorded as Document No. 4025197, a distance of 0.73 feet to a point on the Southeasterly line of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded April 9, 1919 as Document No. 6497655; thence South 12 Degrees 11 Minutes 32 Seconds West along the Southeasterly line of said parcel as conveyed by deed recorded as Document No. 6497655, a distance of 209.18 feet to an angle corner in said parcel; thence South 2 Degrees 53 Minutes 20 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 6497655, a distance of 107.66 feet to the Southerly corner thereof, said Southerly corner being on the West line of a parcel of land as conveyed by the aforesaid deed recorded as Document No. 4025197; thence South 0 Degrees 02 Minutes 01 Seconds East along the West line of said parcel as conveyed by said deed recorded as Document No. 4025197, a distance of 3.42 feet to the Northerly corner of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded April 9, 1919 as Document No. 6497655; thence South 3 Degrees 37 Minutes 59 Seconds West along the Westerly line of said parcel as conveyed by deed recorded as Document No. 6497656, a distance of 94.45 feet to an angle corner in said parcel; thence South 10 Degrees 54 Minutes 52 Seconds West along the Westerly line of said parcel as conveyed by deed recorded as Document No. 6497656, a distance of 33.08 feet to the Southerly corner thereof, said Southerly corner being also the Northerly corner of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded April 9, 1919 as Document No. 6497655; thence South 12 Degrees 45 Minutes 45 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 6497655, a distance of 79.08 feet to a point on the Northwesterly line of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded November 5, 1964 as Document No. 19294210; thence North 44 Degrees 31 Minutes 22 Seconds East along the Northwesterly line of said parcel as conveyed by deed recorded as Document No. 19294210, a distance of 0.20 feet to the Northeast corner thereof; thence South 17

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## EXHIBIT A - LEGAL CONTINUED

Degrees 19 Minutes 02 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 19294210, a distance of 51.345 feet to an angle corner in said parcel; thence South 25 Degrees 39 Minutes 42 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 19294210, a distance of 51.35 feet to the Southeast corner thereof; thence South 89 Degrees 58 Minutes 25 Seconds West along the South line of said parcel as conveyed by deed recorded as Document No. 19294210 and along the North line of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded November 5, 1964 as Document No. 19294211 a distance of 255.36 feet to the Northwest corner thereof; thence South 19 Degrees 35 Minutes 58 Seconds West along the Northwesterly line of said parcel conveyed by deed recorded as Document No. 19294211, a distance of 13.71 feet to the Southwesterly corner of said parcel conveyed by deed recorded as Document No. 19294211, said Southwesterly corner being also the Northeasterly corner of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded November 5, 1964 as Document No. 19294210; thence along the Southerly lines of said parcel conveyed by deed recorded as Document No. 19294210, said Southerly lines being more particularly described as follows:

Beginning at the Northeasterly corner of said parcel; thence South 19 Degrees 35 Minutes 22 Seconds West a distance of 78.25 feet to a point; thence South 65 Degrees 06 Minutes 02 Seconds West a distance of 289.38 feet to a point; thence South 89 Degrees 55 Minutes 02 Seconds West a distance of 107.29 feet to a point; thence South 0 Degrees 04 Minutes 58 Seconds East a distance of 86.77 feet to a point; thence South 80 Degrees 58 Minutes 21 Seconds West a distance of 50.69 feet to the Southwest corner of said parcel conveyed by deed recorded as Document No. 19294210, being also the Northeast corner of parcel of land conveyed to Manufacturers' Junction Railway Company by Deed recorded November 5, 1964 as Document No. 19294211; thence along the Northerly, Westerly and Southerly boundary lines of said parcel conveyed by deed recorded as Document No. 19294211, said boundary lines being more particularly described as follows:

Beginning at the Northeast corner of said parcel; thence South 80 Degrees 51 Minutes 57 Seconds West along the Northerly line of said parcel a distance of 300.67 feet; thence South 0 Degrees 02 Minutes 45 Seconds East along the Westerly line of said parcel a distance of 58.14 feet; thence South 55 Degrees 37 Minutes 34 Seconds East along the Southerly line of said parcel a distance of 4.00 feet; thence North 68 Degrees 47 Minutes 36 Seconds East along the Southerly line of said parcel a distance of 137.44 feet; thence continuing North 71 Degrees 41 Minutes 52 Seconds East along the Southerly line of said parcel a distance of 75.25 feet; thence South 18 Degrees 18 Minutes 08 Seconds East along a line in said parcel a distance of 6.09 feet to a corner in said parcel as conveyed by deed recorded as Document No. 19294211, said corner being in the Southeasterly line of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded May 25, 1955 as Document No. 16247423;

thence South 66 Degrees 55 Minutes 49 Seconds West along the Southeasterly line of said parcel as conveyed by deed recorded as Document No. 16247423, a distance of 134.22 feet to a corner in said parcel; thence South 0 Degrees 02 Minutes 01 Seconds



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## EXHIBIT A - LEGAL CONTINUED

East along a line in said parcel, being a line parallel with the East line of South Cicero Avenue, a distance of 16.18 feet to a point in the Northwesterly line of Ogden Avenue per Ordinance adopted September 8, 1888, said point being 125.43 feet (as measured along said Northwesterly line of Ogden Avenue) East of the East line of South Cicero Avenue; thence South 77 Degrees 49 Minutes 49 Seconds West along said Northwesterly line of Ogden Avenue a distance of 85.43 feet to a point, said point being 40.00 feet (as measured along said Northwesterly line) East of the East line of South Cicero Avenue; thence Northwesterly 57.60 feet along the arc of a circle concave to the Northeast having a radius of 32.31 feet, tangent to the last described line and whose chord of 50.27 feet bears North 51 Degrees 06 Minutes 06 Seconds West to its point of tangency with the East line of South Cicero Avenue at a point 40.00 feet North of said Northwesterly line of Ogden Avenue; thence North 0 Degrees 02 Minutes 01 Seconds West along said East line of South Cicero Avenue, a distance of 2210.18 feet to the hereinabove designated point of beginning, in Cook County, Illinois.)

### Parcel 2:

That part of the West 1/2 of the Northwest 1/4 of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, described as follows: Commencing at the point of intersection of the East line of South Cicero Avenue (being a line 33.00 feet East of and parallel with the West line of said Northwest 1/4) and the South line of Cermak Road (being a line 75.00 feet South of and parallel with the North line of said Northwest 1/4); thence South 0 degrees 02 minutes 01 seconds East, along said East line of South Cicero Avenue, 1026.38 feet to a point of beginning of the tract herein described; thence continuing South 0 degrees 02 minutes 01 seconds East, along said East line, a distance of 150.00 feet; thence North 89 degrees 57 minutes 59 seconds East, along a line drawn perpendicular to the East line of Cicero Avenue, 175.00 feet; thence North 0 degrees 02 minutes 01 seconds West 150.00 feet; thence South 89 degrees 57 minutes 59 seconds West 175.00 feet to the hereinabove described point of beginning, in Cook County, Illinois.

### Parcel 3:

That part of the West 1/2 of the Northwest 1/4 of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, described as follows: Commencing at the point of intersection of the East line of South Cicero Avenue (being a line 33.00 feet East of and parallel with the West line of said Northwest 1/4) and the South line of Cermak Road (being a line 75.00 feet South of and parallel with the North line of said Northwest 1/4); thence South 0 degrees 02 minutes 01 seconds East, along said East line of South Cicero Avenue, 1176.38 feet to the point of beginning of the tract herein described; thence continuing South 0 degrees 02 minutes 01 seconds East, along said East line, a distance of 200.00 feet; thence North 89 degrees 57 minutes 59 seconds East, along a line drawn perpendicular to the East line of Cicero Avenue, 175.00 feet; thence North 0 degrees 02 minutes 01 seconds West 200.00 feet; thence South 89 degrees 57 minutes 59 seconds West 175.00 feet to the hereinabove described point of beginning, in Cook County, Illinois.

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COOK COUNTY RECORDER

## EXHIBIT A - LEGAL CONTINUED

### Parcel 4:

That part of the West 1/2 of the Northwest 1/4 of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, described as follows: Commencing at the point of intersection of the East line of South Cicero Avenue (being a line 33.00 feet East of and parallel with the West line of said Northwest 1/4) and the South line of Cermak Road (being a line 75.00 feet South of and parallel with the North line of said Northwest 1/4); thence South 0 degrees 02 minutes 01 seconds East, a long said East line of South Cicero Avenue, 1376.38 feet to the point of beginning of the tract herein described; thence continuing South 0 degrees 02 minutes 01 seconds East, along said East line, a distance of 271.30 feet; thence South 45 degrees 02 minutes 01 seconds East, 28.28 feet; thence North 89 degrees 57 minutes 59 seconds East, along a line drawn perpendicular to the East line of Cicero Avenue, 130.00 feet; thence North 44 degrees 57 minutes 59 seconds East 35.36 feet; thence North 0 degrees 02 minutes 01 seconds West 166.30 feet; thence South 89 degrees 57 minutes 59 seconds West 175.00 feet to the hereinabove described point of beginning, in Cook County, Illinois.

### Permanent Index Numbers:

16-27-100-015  
16-27-100-016  
16-27-100-017  
16-27-100-018  
16-27-100-019  
16-27-100-020  
16-27-100-021  
16-27-100-022

Volume: 043

(The above affect Parcel 1)

16-27-100-023  
(Affects Parcel 2)

16-27-100-024  
(Affects Parcel 3)

16-27-100-025  
(Affects Parcel 4)

Property: Hawthorne Works Shopping Center  
2309 S. Cicero Ave., Cicero, IL

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