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Doc#: 0332231144
Eugene "Gene" Moore Fee: \$40.00
Cook County Recorder of Deeds
Date: 11/18/2003 03:09 PM Pg: 1 of 9

Prepare by and
Record and return to:

Blackwell Sanders Peper Martin LLP
720 Olive Street, Suite 2400
St. Louis, Missouri 63101
ATTN: Matthew Buesching, Esq.

5 all

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT Loan No. 753736

THIS AGREEMENT, made and entered into as of the 18th day of November, 2003, by and between PRINCIPAL COMMERCIAL FUNDING, LLC, a Delaware limited liability company, with a principal office at c/o Principal Real Estate Investors, LLC, 801 Grand Avenue, Des Moines, Iowa 50392-1366 (hereinafter called "Lender"), NORTH AVENUE VENTURE, LLC, an Illinois limited liability company, with its principal office at 119 Ridge Road, Highland Park, IL 60035 (hereinafter called "Lessor"), and UNCLE JULIO'S OF ILLINOIS, INC., an Illinois corporation, with its principal office at c/o Uncle Julio's Corporation, 1511 Prudential, Dallas, Texas 75235 (hereinafter called "Lessee");

WITNESSETH:

WHEREAS, Lessee has by a written lease dated October 2, 1992 (hereinafter called the "Lease") leased from Lessor all or part of certain real estate and improvements thereon located in the city of Chicago, state of Illinois, as more particularly described in Exhibit A attached hereto (the "Demised Premises"); and

WHEREAS, Lender hereby consents to and approves the Lease and all of the terms and conditions thereof.

WHEREAS, Lessor is encumbering the Demised Premises as security for a loan (the "Loan") from Lender to Lessor (the "Mortgage"); and

WHEREAS, Lessee, Lessor and Lender have agreed to the following with respect to their mutual rights and obligations pursuant to the Lease and the Mortgage;

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) paid by each party to the other and the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

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(1) Lessee's interest in the Lease and all rights of Lessee thereunder, including but not limited to, any purchase option or right of first refusal in connection with a sale of the Demised Premises, if any, shall be and are hereby declared subject and subordinate to the Mortgage upon the Demised Premises and its terms, and the term "Mortgage" as used herein shall also include any amendment, supplement, modification, renewal, refinance or replacement thereof. Lender further agrees not to join Lessee in any foreclosure proceeding except to the extent necessary under applicable law, but such joinder shall not be in derogation of the rights of Lessee as set forth in this Agreement.

(2) In the event of any foreclosure of the Mortgage or any conveyance in lieu of foreclosure, provided that the Lessee shall not then be in default beyond any grace period under the Lease and that the Lease shall then be in full force and effect, then Lender shall neither terminate the Lease nor join Lessee in foreclosure proceedings, nor disturb Lessee's possession, and the Lease shall continue in full force and effect as a direct lease between Lessee and Lender. In the event Lender, its successors and/or assigns acquire the Demised Premises through foreclosure proceedings, deed-in-lieu of foreclosure, or otherwise, such event shall not activate Lessee's purchase option or right of first refusal.

(3) After the receipt by Lessee of notice from Lender of any foreclosure of the Mortgage or any conveyance of the Demised Premises in lieu of foreclosure, Lessee will thereafter attorn to and recognize Lender or any purchaser at any foreclosure sale or otherwise as its substitute lessor on the terms and conditions set forth in the Lease.

(4) Lessee hereby agrees that if Lessee has the right to terminate the Lease or to claim a partial or total eviction, or to abate or reduce rent due to a Lessor default under the Lease, Lessee will not exercise such right until it has given written notice to Lender, and Lender has failed within thirty (30) days after both receipt of such notice and the date when it shall have become entitled to remedy the same, to commence to cure such default and thereafter diligently prosecute such cure to completion within ninety (90) days of Lender's commencement to cure such default.

(5) There shall be no merger of the Lease or the leasehold estate created thereby with any other estate in the Demised Premises, including without limitation the fee estate, by reason of the same person or entity acquiring or holding, directly or indirectly, the Lease and said leasehold estate and any such other estate.

(6) This Agreement and its terms shall be governed by the laws of the state where the Demised Premises are located and shall be binding upon and inure to the benefit of Lender, Lessor and Lessee and their respective successors and assigns, including, without limitation, any purchaser at any foreclosure sale or otherwise. This Agreement may not be modified orally or in any manner other than by an agreement, in writing, signed by the parties.

(7) This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts when taken together shall constitute but one agreement.

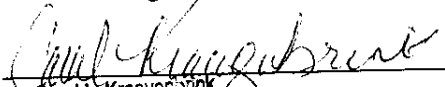
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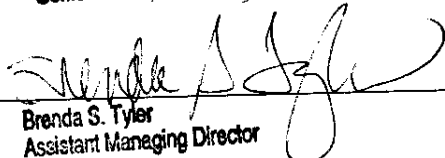
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IN WITNESS WHEREOF, this Agreement has been fully executed under seal on the day and year first above written.

PRINCIPAL COMMERCIAL FUNDING, LLC,
a Delaware limited liability company

By: PRINCIPAL REAL ESTATE INVESTORS, LLC,
a Delaware limited liability company,
its authorized signatory

By: 
Carol L. Kraayenbrink
Senior Closing Consultant

By: 
Brenda S. Tyler
Assistant Managing Director
Debt Closing

NORTH AVENUE VENTURE, LLC
an Illinois limited liability company

By: _____

By: _____
Name: _____
Title: _____

UNCLE JULIO'S OF ILLINOIS, INC.
an Illinois corporation

By: _____
Name: _____
Title: _____

[NOTARIES APPEAR ON FOLLOWING PAGES]

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IN WITNESS WHEREOF, this Agreement has been fully executed under seal on the day and year first above written.

PRINCIPAL COMMERCIAL FUNDING, LLC,
a Delaware limited liability company

By: PRINCIPAL REAL ESTATE INVESTORS, LLC,
a Delaware limited liability company,
its authorized signatory

By: _____

By: _____

NORTH AVENUE VENTURE, LLC
an Illinois limited liability company

By: FREMONT VENTURE CORPORATION,
managing member

By: Fred A. Eisenberg
Its: Vice President

By: F. PAUL OHADI TRUST DATED
DECEMBER 15, 1999, as amended,
managing member

By: _____

F. Paul Ohadi, as Trustee of the
F. Paul Ohadi Trust dated
December 15, 1999, as amended.

UNCLE JULIO'S OF ILLINOIS, INC.
an Illinois corporation

By: _____

Name: _____

Title: _____

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IN WITNESS WHEREOF, this Agreement has been fully executed under seal on the day and year first above written.

PRINCIPAL COMMERCIAL FUNDING, LLC,
a Delaware limited liability company

By: PRINCIPAL REAL ESTATE INVESTORS, LLC,
a Delaware limited liability company,
its authorized signatory

By: _____

By: _____

NORTH AVENUE VENTURE, LLC
an Illinois limited liability company

By: _____

By: _____
Name: _____
Title: _____

UNCLE JULIO'S OF ILLINOIS, INC.
an Illinois corporation

By: _____
Name: Abdo J. Shashy
Title: President

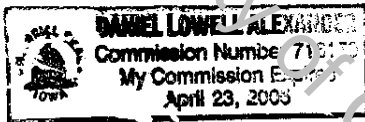
[NOTARIES APPEAR ON FOLLOWING PAGES]

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STATE OF Iowa)
) ss.
COUNTY OF Polk)

The foregoing instrument was acknowledged before me this 17th day of November, 2003, by Carol L. Kraayenbrink, as Senior Closing Consultant and Brenda S. Tyler, as Assistant Managing Director of PRINCIPAL REAL ESTATE INVESTORS, LLC, a Delaware limited liability company, as authorized signatory of PRINCIPAL COMMERCIAL FUNDING, LCC, a Delaware limited liability company, on behalf of the limited liability company. Witness my hand and official seal.



NOTARY PUBLIC
sign Daniel Lowell Alexander
print name Daniel Lowell Alexander
serial number (if any): _____

My commission expires: 4-23-05

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2003, before me appeared _____, to me personally known, who, being by me duly sworn (or affirmed), did say that he/she is the _____ of _____, manager of NORTH AVENUE VENTURE, LLC, an Illinois limited liability company, and that said instrument was signed and sealed on behalf of said _____, by authority of its _____, and said _____ acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the _____ and State aforesaid, the day and year first above written.

Notary Public

My commission expires: _____

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B. J. ZERB & KOLAR

015

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STATE OF Illinois)
) ss.
COUNTY OF Cook)

On this 13 day of November 2003, before me appeared Peter Eisenberg to me personally known, who, being by me duly sworn (or affirmed), did say that he/she is the Vice President of Fremont Venture Corporation, an Illinois corporation, managing member of North Avenue Venture, LLC, an Illinois limited liability company, and that said instrument was signed and sealed on behalf of said Fremont Venture Corporation, by authority of its Board of Directors, in its capacity as managing member of North Avenue Venture, LLC, and said Peter Eisenberg acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the Cook County and State aforesaid, the day and year first above written.

OFFICIAL SEAL
M BRIDGET MURPHY
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. AUG. 1, 2005

M. Bridget Murphy
Notary Public

My commission expires: Aug 1, 2005

STATE OF Illinois)
) ss.
COUNTY OF Cook)

On this 13 day of November 2003, before me appeared F. Paul Ohadi, to me personally known, who, being by me duly sworn (or affirmed), did say that he is the trustee of the F. Paul Ohadi Trust dated December 15, 1999, as amended, managing member of North Avenue Venture, LLC, an Illinois limited liability company, and that said instrument was signed and sealed on behalf of said F. Paul Ohadi Trust dated December 15, 1999, as amended, pursuant to F. Paul Ohadi's authority as trustee, in its capacity as managing member of North Avenue Venture, LLC and said F. Paul Ohadi acknowledged said instrument to be the free act and deed of said trust.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the Cook County and State aforesaid, the day and year first above written.

OFFICIAL SEAL
M BRIDGET MURPHY
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. AUG. 1, 2005

M. Bridget Murphy
Notary Public

My commission expires: Aug 1, 2005

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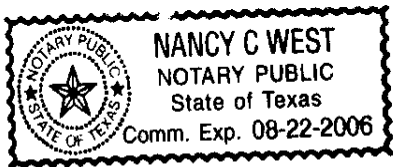
STATE OF Texas)
) ss.
COUNTY OF Dallas)

On this 12 day of November, 2003, before me appeared Abdo J. Shasky to me personally known, who, being by me duly sworn (or affirmed), did say that he/she is the President of UNCLE JULIO'S OF ILLINOIS, INC., an Illinois corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors, and said he acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Nancy C West
Notary Public

My commission expires: Aug 22, 2006



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EXHIBIT A LEGAL DESCRIPTION

LOTS 5, 6, 7, 8, 9, 10 AND 11 IN JOHN YALES RESUBDIVISION OF BLOCK 40 AND OTHER BLOCKS IN ELSTON ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS . 17-05-209-003
17-05-209-004
17-05-209-005
17-05-209-006
17-05-209-007

Common Address: 4845-4855 West North Ave
Chicago, IL
60622