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1999-10-26 08:47:32
Cook County Recorder 33.00



SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT is made and entered into this 18th day of October, 1999, by and among BOND DRUG COMPANY OF ILLINOIS, an Illinois corporation (hereinafter referred to as "Tenant"), with a mailing address of 200 Wilmot Road, Deerfield, Illinois 60015, and GARFIELD-HALSTED, L.L.C., an Illinois limited liability company, both with a mailing address of 225 West Hubbard, Fourth Floor Chicago, Illinois 60610 (hereinafter collectively referred to as "Landlord"), and LASALLE BANK NATIONAL ASSOCIATION, as Landlord's Mortgagee (hereinafter referred to as "Mortgagee"), with a mailing address of 135 South LaSalle Street, 12th Floor, Chicago, Illinois 60603.

WITNESSETH:

WHEREAS, Tenant has heretofore entered into a Lease dated October 18, 1999, with Landlord, whereby Landlord has demised to Tenant the premises described in said Lease, which are hereinafter referred to as the "Leased Premises" located on certain real estate legally described in Exhibit "A" attached hereto and made a part hereof (the "real estate"); said Lease together with any amendments or modifications thereof, whether now or hereafter existing, shall be hereinafter referred to as the "Lease"; and

WHEREAS, Landlord has executed and delivered to Mortgagee, a Mortgage and an Assignment of Rents and Leases, each dated October 18, 1999, and filed with the Cook County Recorder of Deeds on 10-26-99, as Document Nos. 09004535 and 09004536, respectively, together with related security documents (collectively the "Mortgage") encumbering the real estate to secure an indebtedness of Two Million Two Hundred Ninety-Five Thousand Dollars (\$2,295,000); and

WHEREAS, Mortgagee, as a condition to making the loan secured by the Mortgage ("Loan"), has requested the execution of this Agreement.

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NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and in consideration of One Dollar (\$1.00) by each of the parties hereto paid to the other, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby covenant and agree as follows:

1. The Lease is and shall continue to be subject and subordinate to the Mortgage and to all renewals, modifications, consolidations, replacements, and extensions thereof, to the full extent of the principal sum secured thereby and interest accrued and from time to time unpaid thereon, subject to the terms of this Agreement.

2. So long as Tenant is not in default as defined in said Lease in the payment of rent, additional rent or other charges or conditions of the Lease, Tenant shall not be disturbed by Mortgagee in Tenant's possession, enjoyment, use and occupancy of the Leased Premises during the original or any renewal term of the Lease or any extension or modification thereof, and in the event Mortgagee succeeds to the Landlord's interest under the Lease, Mortgagee agrees to be bound by the Lease and all of the terms and conditions thereof. In the event of a conflict between the provisions of the Lease and the Mortgage, the terms of the Lease shall prevail.

3. Tenant agrees that upon receipt of written notice from Mortgagee of an uncured default by Landlord under the Mortgage or the Note secured by the Mortgage, all checks for all or any part of rentals and other sums payable by Tenant under the Lease shall be delivered to and drawn to the exclusive order of Mortgagee until Mortgagee or a court of competent jurisdiction direct otherwise. Such an assignment of rents shall not relieve Landlord of any of its obligations under said Lease and shall not modify or diminish any rights granted to Tenant by said Lease or this Agreement, including but not limited to, Tenant's rights of offset or deduction. Landlord specifically consents to this paragraph 3. Landlord relieves Tenant of all liability for the payment of any sums as required under this paragraph 3. Tenant shall have no liability nor obligation to verify the existence of any default so alleged by Mortgagee.

4. (a) Tenant shall give prompt written notice to Mortgagee of all defaults by Landlord of those obligations under the Lease which are of such a nature as to give Tenant a right to terminate the Lease, to reduce rent, or to credit or offset any amounts against future rents, and Mortgagee shall have the same opportunity as provided to Landlord in said Lease (but shall not be required) to cure the same.

(b) All notices under this Agreement shall be in writing and if addressed to Tenant, to 200 Wilmot Road, Deerfield, Illinois 60015, Attention Law Department, and if addressed to Mortgagee, to:

LaSalle Bank National Association
135 South LaSalle Street
12th Floor
Chicago, Illinois 60603
Attn: Ms. Andrea Velthoven

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provided that each party by like notice may designate any future or different addresses to which subsequent notices shall be sent. Notices shall be deemed given upon receipt or upon refusal to accept delivery.

5. In the event it should become necessary to foreclose the Mortgage, the Mortgagee thereunder will not join the Tenant as a party defendant in any foreclosure proceedings so long as the Tenant is not in default under any of the terms, covenants or conditions of the Lease (except to the extent necessary to accomplish the foreclosure and then not to disturb Tenant's possession nor interfere with any of Tenant's rights under its Lease).

6. In the event that the Mortgagee or its designee shall, in accordance with the foregoing, succeed to the interest of the Landlord under the Lease, the Mortgagee agrees to be bound (or to cause its designee to be bound) to the Tenant under all of the terms, covenants and conditions of the Lease, and the Tenant agrees, from and after such event, to attorn to the Mortgagee, its designee or the purchaser at any foreclosure sale, of the real estate and/or Leased Premises or any part thereof, all rights and obligations under the Lease to continue as though the interest of Landlord had not terminated or such foreclosure proceedings had not been brought, and the Tenant shall have the same remedies against the Mortgagee, designee or purchaser for the breach of any agreement contained in the Lease that the Tenant might have under the Lease against the Landlord; provided, however, that the Mortgagee, designee or purchaser shall not be:

- (a) liable for any act or omission of any prior landlord (including the Landlord) except those which constitute a default of Landlord under the Lease and of which Tenant has notified Mortgagee;
- (b) subject to any offsets or defenses which the Tenant might have against any prior landlord (including the Landlord) except those which arise out of Landlord's default under the Lease and of which Tenant has notified Mortgagee;
- (c) bound by any rent or additional rent which the Tenant might have paid for more than the current month to any prior landlord (including Landlord); or
- (d) bound by any amendment or modification of the Lease made without the consent of Mortgagee subsequent to the date hereof.

Such Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

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7. Tenant agrees that Mortgagee may use all plans and specifications in connection with the Leased Premises to complete the construction of the improvements thereof.

8. If the Lease is terminated under Article 14 of the Lease due to a fire or other casualty, and Tenant is required to pay any insurance or self-insurance proceeds to Landlord as set forth in Article 14 and/or 20 of the Lease, then so long as the Mortgage and Loan shall be in effect, Tenant shall pay such proceeds by a check jointly payable to Landlord and Mortgagee.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

TENANT:

BOND DRUG COMPANY OF ILLINOIS

4me By: William A. Saul
Its: Vice President

LANDLORD:

GARFIELD-HALSTED, L.L.C., an Illinois limited liability company

By: [Signature]
Its: MANAGER

MORTGAGEE:

LASALLE BANK NATIONAL ASSOCIATION

By: [Signature]
Its: [Signature]

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EXHIBIT "A"

Legal Description

LOT 6 THROUGH 16 IN BLOCK 7 OF H.B. BRYANT'S ADDITION TO CHICAGO
IN THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 9, TOWNSHIP 38
NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN.

COMMONLY KNOWN AS: 752 W. GARFIELD BLVD.
 CHICAGO, ILLINOIS

Property of Cook County Clerk's Office

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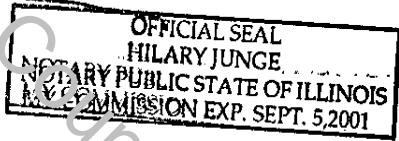
STATE OF ILLINOIS)
)
COUNTY OF LAKE) ss.

I, Hilary Junge, a Notary Public, do hereby certify that William A. Shirel, personally known to me to be the Vice President of BOND DRUG COMPANY OF ILLINOIS, an Illinois corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Vice President, he signed and delivered the said instrument as Vice President of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 15th day of October, 1999.

Hilary Junge
Notary Public

My Commission Expires:



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STATE OF ILLINOIS)
)
) SS.
COUNTY OF Cook)

I, STEPHANIE T. BENGTSSON, a Notary Public, do hereby certify that JOHN MCLINDEN, personally known to me to be the Manager of Garfield-Halsted, L.L.C., an Illinois limited liability company ("Company"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person 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 Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 10th day of October, 1999.

Stephanie T. Bengtsson
Notary Public
OFFICIAL SEAL
STEPHANIE T. BENGTSSON
Notary Public, State of Illinois
My Commission Expires 10/6/01

My Commission Expires:

STATE OF ILLINOIS)
)
) SS.
COUNTY OF COOK)

I, MARIA T. ESPARZA, a Notary Public, do hereby certify that John D. Heiberger, personally known to me to be the V.P. of LaSalle Bank National Association, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such V.P., he signed and delivered the said instrument as V.P. of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 19th day of October, 1999.

Maria T. Esparza
Notary Public
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My Commission Expires:

OFFICIAL SEAL
MARIA T ESPARZA
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES: 04/12/03