

UNOFFICIAL COPY

09098582

514670101 03 001 Page 1 of 7

1999-11-22 12:17:37

Cook County Recorder



09098582

CAOFFICE\MUTUAL\LAKEFORE\TRSTMRK.SB\111199

PREPARED BY AND AFTER

RECORDING RETURN TO:

William B. Phillips, Esq.

Levin, McParland, Phillips & Minetz

180 North Wacker Drive

Chicago, Illinois 60606

FOR RECORDERS USE ONLY

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS AGREEMENT made and entered into November 16, 1999, by and between TRUSTMARK INSURANCE COMPANY, an Illinois corporation (hereinafter called "Tenant") and MUTUAL TRUST LIFE INSURANCE COMPANY, an Illinois corporation ("Mortgagee").

WITNESSETH:

WHEREAS, Mortgagee is loaning to AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee under Trust Agreement dated June 15, 1998 and known as Trust No. 124226-06 (the "Landlord") the principal sum of Two Million Four Hundred Seventy Thousand and No/100 Dollars (\$2,470,000.00) (the "Loan") evidenced by a Promissory Note dated November 1, 1999, payment of which is secured in part by a Mortgage dated November 1, 1999 on the premises commonly known as 28401 Ballard Drive, Lake Forest, Illinois and legally described on Exhibit "A" attached hereto (the "Premises"); and

WHEREAS, Tenant is leasing the Premises pursuant to a lease amendment dated March 11, 1998 with Lake Forest Venture (predecessor in title to Landlord) expiring on September 30, 2008 (the "Lease"); and

WHEREAS, Mortgagee as a condition to making a the Loan has requested the execution of this Agreement.

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

UNOFFICIAL COPY

09098582

1. The Lease is and shall be subject and subordinate to the Mortgage insofar as it affects the Premises, and to all renewals, modifications, consolidations, replacements and extensions thereof, to the full extent of the principal sum secured thereby and interest thereon.

2. Notwithstanding anything to the contrary in the Lease, Tenant shall deliver or mail to Mortgagee, at Mortgagee's address set forth below, written notice of any default by Landlord under the Lease, and if within the time provided in the Lease for curing thereof by Landlord, Mortgagee performs or causes to be performed all such obligations with respect to which Landlord is in default which can be cured by the payment of money, any right of Tenant to terminate the Lease by reason of such default shall cease and be null and void.

3. Tenant is hereby advised that the documents which evidence and secure the Loan give Mortgagee the right to collect rent and other sums payable under the Lease directly from Tenant upon the occurrence of a default hereunder, and Tenant agrees that upon the receipt from Mortgagee of notice of any such default, Tenant will thereafter pay all rent and other sums payable under the Lease directly to Mortgagee (or as Mortgagee shall direct) as they become due and payable.

4. In the event it should become necessary to foreclose the Mortgage, the Mortgagee thereunder will not join the Tenant in summary or foreclosure proceedings so long as the Tenant is not in default under any of the terms, covenants, or conditions of the Lease.

5. In the event that the Mortgagee shall, in accordance with the foregoing, succeed to the interest of the Landlord under the Lease, the Mortgagee agrees 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 and/or purchaser at any foreclosure sale of the Premises, 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 and/or purchaser for the breach of an agreement contained in the lease that the Tenant might have had under the lease against the Landlord if the Mortgagee and/or purchaser had not succeeded to the interest of the Landlord; provided, however, that the Mortgagee and/or purchaser shall not be:

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

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

(c) bound by any amendment or modification of the lease made without Mortgagee's consent; or

UNOFFICIAL COPY

09098582

(d) liable for any security deposit, unless actually received by Mortgagee.

6. Notwithstanding anything to the contrary hereinabove contained, any interest of the Tenant in an option to purchase or right of first refusal of all or any part of the demised premises contained in the lease is specifically subordinated to the rights of the first Mortgagee under the terms of the Mortgage and such option or right of first refusal shall not be binding upon the first Mortgagee, its successors or assigns.

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

TRUSTMARK INSURANCE COMPANY, an Illinois corporation

By: Raymond J. Jeter
Title: Vice President and Associate General Counsel

ATTEST:

By: Stephen J. McDaniel
Title: Assistant Secretary

MUTUAL TRUST LIFE INSURANCE COMPANY

By: _____
Title: _____

ATTEST:

By: _____
Title: _____

UNOFFICIAL COPY

09098582

(d) liable for any security deposit, unless actually received by Mortgagee.

6. Notwithstanding anything to the contrary hereinabove contained, any interest of the Tenant in an option to purchase or right of first refusal of all or any part of the demised premises contained in the lease is specifically subordinated to the rights of the first Mortgagee under the terms of the Mortgage and such option or right of first refusal shall not be binding upon the first Mortgagee, its successors or assigns.

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

TRUSTMARK INSURANCE COMPANY, an
Illinois corporation

By: _____
Title: _____

ATTEST:

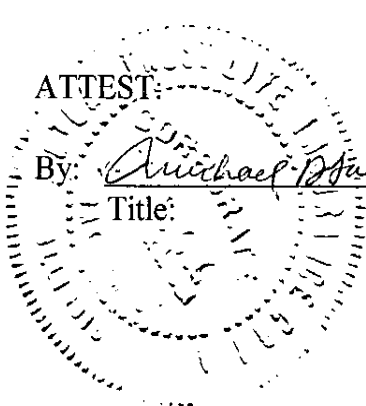
By: _____
Title: _____

MUTUAL TRUST LIFE INSURANCE COMPANY

By: William K. Funder
Title: Senior Vice President

ATTEST:

By: Michael D. Dineen
Title: Assistant Secretary



UNOFFICIAL COPY

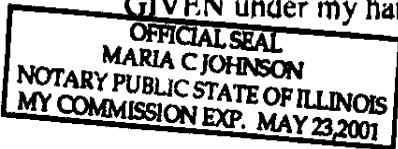
STATE OF)
)
COUNTY OF)

09098582

SS.

I, Maria C. Johnson, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Raymond J. Lester, Vice President of TRUSTMARK INSURANCE COMPANY, and Steve McDaniel, Assistant Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said Assistant Secretary did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 15th day of November, 1999.



Maria C. Johnson
Notary Public

STATE OF ILLINOIS)
)
COUNTY OF COOK)

SS.

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____, _____ President of MUTUAL TRUST LIFE INSURANCE COMPANY, and _____ Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ President and _____ Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said _____ Secretary did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this _____ day of _____, 1999.

Notary Public

UNOFFICIAL COPY

09098582

STATE OF)
)
COUNTY OF) SS.

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____, _____ President of **TRUSTMARK INSURANCE COMPANY**, and _____ Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ President and _____ Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said _____ Secretary did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

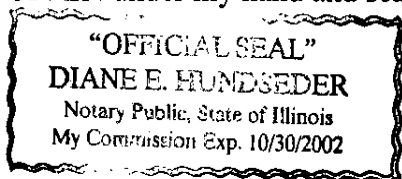
GIVEN under my hand and seal this _____ day of _____, 1999.

Notary Public

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

I, Diane E. Hundseher, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that William K. Knudsen, Sr. Vice President of **MUTUAL TRUST LIFE INSURANCE COMPANY**, and Michael D. Savegnago, Ass't. Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Sr. Vice President and Ass't. Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said Ass't. Secretary did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 15th day of November, 1999.



Diane E. Hundseher
Notary Public

UNOFFICIAL COPY 09098582

EXHIBIT "A"
LEGAL DESCRIPTION OF LAND

Lot 26 in Bradley Road Industrial Park Unit Number 2, being a Subdivision of part of Section 24, Township 44 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded May 6, 1980 as Document 2059641, in Lake County, Illinois.

Address of Property: 28401 Ballard Drive, Lake Forest, Illinois
Permanent Index No.: 12-24-301-006

Property of Cook County Clerk's Office