

UNOFFICIAL COPY

09174656

970770018 05 001 Page 1 of 8  
1999-12-17 10:25:06  
Cook County Recorder 35.00



**SUBORDINATION AGREEMENT (STREAMWOOD, ILLINOIS)**

THIS SUBORDINATION AGREEMENT ("AGREEMENT") IS MADE AS OF THE 15<sup>th</sup> DAY OF DECEMBER, 1999, BY NATIONAL CITY BANK OF MICHIGAN/ILLINOIS F/K/A FIRST OF AMERICA BANK-ILLINOIS, N.A. ("JUNIOR LENDER"), TO AND FOR THE BENEFIT OF NATIONAL CITY BANK OF MICHIGAN/ILLINOIS F/K/A FIRST OF AMERICA BANK-ILLINOIS, N.A. ("SENIOR LENDER").

**WITNESSETH:**

**WHEREAS**, Storage Investments, L.L.C., an Illinois limited liability company ("SI") has executed and delivered a Promissory Note dated December 1, 1996 in the original amount of EIGHTEEN MILLION THREE HUNDRED FIFTY THOUSAND DOLLARS (\$18,350,000.00) ("Junior Note"); and

**WHEREAS**, the Junior Note is secured by a Mortgage dated December 1, 1996 ("Junior Mortgage") in favor of Junior Lender and encumbering the real estate legally described on Exhibit A, attached hereto and made a part hereof ("Property") and certain other documents and instruments evidencing and securing the Junior Note ("Other Junior Loan Documents") (Junior Note, Junior Mortgage and Other Junior Loan Documents are collectively "Junior Loan Documents"); and

**WHEREAS**, SI and Metro Storage LLC, an Illinois limited liability company ("Metro") (SI and Metro are collectively referred to as "Borrowers") have executed and delivered notes of an even date herewith (collectively "Senior Notes") in the original principal amount of TWENTY MILLION SIX HUNDRED THOUSAND DOLLARS (\$20,600,000.00) and THREE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$3,250,000.00) made payable to the order of Senior Lender in accordance with the terms of a Loan Agreement of even date herewith by and between Borrowers, MATTHEW M. NAGEL and K. BLAIR NAGEL and Senior Lender ("Loan Agreement"); and

784269702 case 3786

8  
R

**BOX 333-CTI**

**WHEREAS**, the Senior Notes are secured, in part, by a Mortgage and a Second Mortgage of an even date herewith encumbering the Property ("Senior Mortgages") and certain other documents and instruments as set forth in the Loan Agreement ("Other Senior Loan Documents") (the Senior Notes, Loan Agreement, Senior Mortgages and the Other Senior Loan Documents are collectively "Senior Loan Documents"); and

**WHEREAS**, without the execution and delivery of this Agreement, the existence of the Junior Loan Documents constitutes a default under the Senior Loan Documents, and Senior Lender will consent to the Junior Loan Documents only upon the execution and delivery of this Agreement by Junior Lender.

**NOW, THEREFORE**, to induce Senior Lender to consent to the Junior Loan Documents and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Junior Lender hereby agrees that until the Senior Loan Documents have been paid and satisfied in full:

1. **SUBORDINATION OF INSTRUMENTS.** Any and all of the (a) Junior Loan Documents (and every amendment, modification, renewal and extension thereof); and (b) indebtedness, liabilities, obligations, liens and security interests evidencing or created by the Junior Loan Documents or associated therewith are hereby subordinated to (x) any and all of the Senior Loan Documents (and every amendment, modification, renewal and extension thereof); and (y) all indebtedness, liabilities and obligations evidenced and secured by or created by the Senior Loan Documents or associated therewith.

2. **SUBORDINATION OF PAYMENTS.** The payment of all amounts due and owing or coming due under the Junior Loan Documents (collectively the "Junior Payments"), specifically including, without limitation payments from SA to the Junior Lender of interest and principal under the Junior Note are hereby and shall be subordinate to the payment in full of all amounts due and owing or coming due under the Senior Loan Documents (collectively the "Senior Payments"), specifically including, without limitation (x) payments of interest and principal under the Senior Notes; and (y) payments of insurance proceeds and condemnation, eminent domain, or similar awards to be paid to or for the benefit of Senior Lender under the terms of any of the Senior Loan Documents.

3. **INSURANCE PROCEEDS AND CLAIMS.** Junior Lender shall have no right to participate in the adjustment or settlement of insurance losses and/or condemnation claims. The Junior Lender hereby agrees, upon the request and at the direction of Senior Lender, to endorse in favor of Senior Lender any and all checks payable to the Junior Lender, which represent insurance or condemnation proceeds paid for claims relating to the property securing the Senior Notes in any way. The Junior Lender hereby appoints Senior Lender as its attorney in fact, in its place and stead,

# UNOFFICIAL COPY

to settle all insurance claims relating to said property and to receive all payments and endorse all checks with regard thereto to the full extent of all amounts secured by the Senior Loan Documents.

4. **MODIFICATION TO JUNIOR LOAN DOCUMENTS.** Junior Lender shall not amend or modify or consent to the amendment or modification of the Junior Loan Documents, without the prior written approval of Senior Lender.

5. **WAIVER OF NOTICES, DEFENSES, ETC.** Junior Lender hereby waives (i) notice of acceptance by Senior Lender of this Agreement; (ii) notice of the nonpayment of all or any of the Senior Payments; (iii) all diligence by Senior Lender in collection or protection of or realization upon the Senior Loan Documents; and (iv) any protest, defense, claim or objection to or in any way relating to any amendment, modification, renewal or extension of the terms and provisions of any of the Senior Loan Documents, including, without limitation, any increase in or extension of time for the Senior Payments evidenced or secured thereby.

6. **COMMENCEMENT OF BANKRUPTCY PROCEEDINGS.** Junior Lender agrees not to commence, or join with any other creditor in commencing, any bankruptcy, reorganization or insolvency proceedings with respect to Borrowers (or any party comprising Borrowers), without first obtaining Senior Lender's prior written consent.

7. **ACTION TAKEN BY SENIOR LENDER.** Senior Lender may, from time to time, whether before or after any discontinuance of this Agreement, at its sole discretion and without notice to the Junior Lender, take any or all of the following actions: (i) retain or obtain a security interest in any of Borrowers' property to secure any of the obligations or liabilities created by or associated with the Senior Loan Documents; and (ii) retain or obtain the primary or secondary obligation of any other obligor or obligors with respect to any of the obligations or liabilities created by or associated with the Senior Loan Documents.

8. **ASSIGNMENT BY SENIOR LENDER.** Senior Lender may, from time to time, whether before or after any discontinuance of this Agreement, at its discretion and without notice to Junior Lender, assign or transfer any or all of the Senior Payments or any interest therein and/or any or all of the Senior Loan Documents, or any interest therein, and notwithstanding any such assignment or transfer or subsequent assignment or transfer thereof, the Senior Payments and Senior Loan Documents shall be and remain Senior Payments and Senior Loan Documents for the purposes of this Agreement.

9. **NOTICES.** Any notices which may be given hereunder shall be in writing and shall be mailed or delivered to the intended recipient thereof at its address hereinbelow set forth, or at such other address as such intended recipient may, from time to time, by notice in writing, designate to the sender pursuant hereto. Any such notice shall be deemed to have been delivered one (1) business day after mailing by United States registered or certified mail, return receipt requested, postage

prepaid addressed to a party at its address set forth below or such other address as the parties who receive such notice may have designated to all other parties by notice in accordance herewith or when delivered in person.

If to Senior Lender:

NATIONAL CITY BANK OF MICHIGAN/ILLINOIS  
325 North Milwaukee Avenue  
Libertyville, Illinois 60048  
Attn: Robert T. Hanlon, Vice President

If to Junior Lender:


NATIONAL CITY BANK OF MICHIGAN/ILLINOIS  
325 North Milwaukee Avenue  
Libertyville, Illinois 60048  
Attn: Robert T. Hanlon, Vice President

10. **GOVERNING LAW, ETC.** This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. The captions herein are for purposes of convenience only.

11. **BINDING EFFECT.** This Agreement shall be binding upon Junior Lender and its heirs, legatees, legal representatives, successors and assigns, including any owner or holder of any of the Junior Notes, and shall inure to the benefit of Senior Lender and its successors and assigns, including any subsequent owner or holder of any of the Senior Loan Documents.

**IN WITNESS WHEREOF**, this Agreement has been executed and delivered by Junior Lender as of the day and year first above written.

NATIONAL CITY BANK OF MICHIGAN/ILLINOIS

By:   
Its: Vice President

ACKNOWLEDGMENT

The undersigned acknowledge receipt of a copy of the foregoing Subordination Agreement, waive notice of acceptance thereof by Senior Lender and agree to be bound by the terms and provisions thereof, to mark their books and records so as to clearly indicate that the Junior Payments and the Junior Loan Documents are subordinated to the Senior Payments and the Senior Loan Documents in accordance with the terms of such Subordination Agreement, and to do every other act and thing necessary or appropriate to carry out such terms and provisions.

Dated: December 15, 1999

BORROWERS:

METRO STORAGE LLC, an Illinois limited liability company

By: [Signature]  
MATTHEW M. NAGEL, Member

By: [Signature]  
K. BLAIR NAGEL, Member

STORAGE INVESTMENTS, L.L.C., an Illinois limited liability company

By: STORAGE INVESTMENTS NAGEL PARTNERSHIP, L.P., an Illinois limited partnership  
Its: Managing Member

By: [Signature]  
KARL F. NAGEL  
Its: General Partner

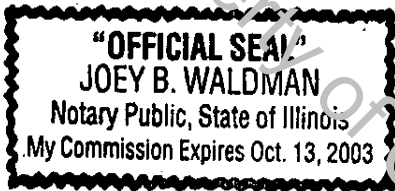
By: [Signature]  
MATTHEW M. NAGEL  
Its: General Partner

By: [Signature]  
K. BLAIR NAGEL  
Its: General Partner

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that Robert T. Hanlon, Vice-President of NATIONAL CITY BANK OF MICHIGAN/ILLINOIS, who is 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 he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 15 day of December, 1999.



Joey B. Waldman  
NOTARY PUBLIC

My Commission Expires: October 13, 2000

Cook County Clerk's Office

**EXHIBIT A**

**LEGAL DESCRIPTION - STREAMWOOD, ILLINOIS**

UNNUMBERED LOT IN PLAT OF CONSOLIDATION OF ALL THAT PART OF LOTS 1 & 2 IN LASALLE BUSINESS CENTER, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SUBDIVISION RECORDED OCTOBER 6, 1993 AS DOCUMENT 93799805 AND AMENDED BY CERTIFICATE OF CORRECTION RECORDED MARCH 24, 1994 AS DOCUMENT 94267381 IN, COOK COUNTY, ILLINOIS.

Common address. 1089 East Avenue  
Streamwood, Illinois 60107

P.I.N.: 06-25-204-013

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

09174056

This instrument was prepared by and after recording return to:

Alan J. Wolf, Esq.  
ROBBINS, SALOMON & PATT, LTD.  
25 East Washington Street  
Suite 1000  
Chicago, Illinois 60602  
(312) 782-9000

Property of Cook County Clerk's Office