

UNOFFICIAL COPY

4084

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of the 2nd day of April, 2012, by and between, **PROTECTIVE LIFE INSURANCE COMPANY**, a Tennessee corporation ("Lender") and **ADVANCE STORES COMPANY, INCORPORATED**, 5008 Airport Road, Roanoke, Virginia 24012 ("Tenant").

WITNESSETH:

8886303 DS MS

WHEREAS, by the Lease dated September 30, 2008, (the "Lease") Tenant has leased from Chicago Title Land Trust Company, as Successor Trustee to Amalgamated Bank of Chicago, as Trustee under Trust Agreement dated June 18, 1991 and known as Trust Number 5517, an Illinois Trust ("Landlord"), those certain premises situated at the corner of Sibley Boulevard and Torrence Avenue consisting of parcel of land located in Cook County, Illinois, upon which Landlord has constructed an approximately 11,038 square foot building and other improvements for Tenant's use, as more particularly described in the Lease (the "Leased Premises").

WHEREAS, Lender is the holder of a mortgage on the Leased Premises, given to Lender by Landlord dated as of April 27, 2012, recorded on May 3, 2012 in the Office of the Recorder of Deeds of Cook County, _____, in Book _____ at Page _____, as Document No. 1212416007 (collectively referred to herein with any other documents securing the debt secured by such mortgage as the "Mortgage").

~~NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:~~

1. Lender hereby consents to the Lease.
2. The Lease is and shall be subject and subordinate at all times to the lien of the Mortgage and to all renewals, replacements and extensions of the Mortgage to the full extent of the principal sum secured thereby and interest thereon.
3. In the event Lender shall commence an action to foreclose the Mortgage or to obtain a receiver of the Leased Premises, or shall foreclose the Mortgage by advertisement, entry and sale according to any procedure available under the laws of the state, Tenant shall not be joined as a party defendant in any such action or proceeding and Tenant shall not be disturbed in its possession of the Leased Premises, so long as Tenant is not in default under any of the material terms, covenants, or conditions of the Lease beyond any applicable cure period provided in the Lease.
4. In the event Lender shall acquire the Leased Premises upon foreclosure, or by deed in lieu of foreclosure, or by any other means:



UNOFFICIAL COPY

- (a) Tenant shall be deemed to have made a full and complete attornment to Lender as Landlord under the Lease so as to establish direct privity between Lender and Tenant; and
- (b) All rights and obligations under the Lease shall continue in full force and shall be enforceable with the same force and effect as if the Lease had originally been made and entered into directly by and between Lender as Landlord thereunder, and Tenant; and
- (c) Lender shall recognize and accept the rights of Tenant and shall thereafter assume the obligations of Landlord under the Lease.
5. Nothing herein contained shall impose any obligations upon Lender to perform any of the obligations of Landlord under the Lease, unless and until Lender shall become owner or mortgagee in possession of the Leased Premises.
6. Any notice required or desired to be given under this Agreement shall be in writing and shall be deemed given (a) upon receipt if delivered personally; (b) two (2) business days after being deposited into the U.S. mail if being sent by certified or registered mail, return receipt requested, postage prepaid; or (c) one (1) business day after being sent by reputable overnight air courier service (i.e., Federal Express, Airborne, etc.) with guaranteed overnight delivery, and addressed as follows:

If to Lender: **PROTECTIVE LIFE INSURANCE COMPANY**
a Tennessee corporation
2801 Highway 280 South
Birmingham, Alabama 35223

Attention: Investment Department

If to Tenant: **ADVANCE STORES COMPANY, INCORPORATED**
5008 Airport Road
Roanoke, Virginia 24012
Attention: Real Estate Department

Copy to: **ADVANCE STORES COMPANY, INCORPORATED**
5008 Airport Road
Roanoke, Virginia 24012
Attention: Legal Department

Either party, at any time and from time to time (by providing notice to the other party in the manner set forth above), may designate a different address or person, or both, to whom such notice may be sent.

7. This Agreement shall be binding upon and inure to the benefit of any person or entity acquiring rights to the Leased Premises by virtue of the Mortgage, and the successors, administrators and assigns of the parties hereto.

UNOFFICIAL COPY

- 8. No fixtures, furnishings, inventory, equipment or other personal property of Tenant are subject to the lien of the Mortgage.

IN WITNESS WHEREOF, this Agreement has been signed and sealed on the day and year first above set forth.

Attest:

Lender:

PROTECTIVE LIFE INSURANCE COMPANY

Rebecca T. Carter
Natalie B. Reid

By: Charles M. Purn
Name: Charles M. Purn
Title: Senior V.P.

STATE OF Alabama
COUNTY OF Jefferson SS:

~~THE undersigned, a Notary Public, in and for the County and State aforesaid,~~
does hereby certify, that Charles M. Purn personally known to me to be the
Senior V.P. of Protective Life Ins. Co. a
Tennessee Corp., and personally known to me to be the same person
whose names are subscribed to the foregoing instrument, appeared before me this day in
person and acknowledged under oath that as such Senior V.P.
he signed and delivered the said instrument pursuant to authority duly given to him by
said Corp.

Given under my hand and seal this 27th day of April 2012.

Jay Clark
Notary Public

My Commission Expires: 10-01-2014

UNOFFICIAL COPY

Witness:

Tenant:

**ADVANCE STORES COMPANY,
INCORPORATED**

Debra Wilson

By: Randall A. Young

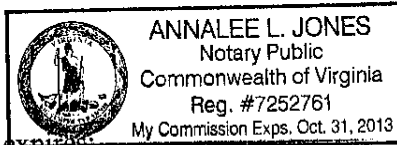
Randall A. Young
Senior Vice President,
Real Estate

Melina Moore

STATE OF VIRGINIA)
) SS;
COUNTY OF ROANOKE)

THE undersigned, a Notary Public, in and for the County and State aforesaid, does hereby certify, that Randall A. Young, Senior Vice President, Real Estate Department OF **ADVANCE STORES COMPANY, INCORPORATED**, a Virginia 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 under oath that as such Senior Vice President, Real Estate, he signed and delivered the said instrument pursuant to authority duly given to him by said corporation.

Given under my hand and seal this 05th day of April, 2012.



AnnaLee Jones
Notary Public

My Commission expires:

Prepared by and return to when recorded:

ADVANCE STORES COMPANY, INCORPORATED
Attn: Real Estate Department
5008 Airport Road
Roanoke, Virginia 24012

UNOFFICIAL COPY

EXHIBIT A

STREET ADDRESS: 480 W. SIBLEY ROAD
CITY: CALUMET CITY COUNTY: COOK
TAX NUMBER: 29-12-407-001-0000; 29-12-407-002-0000; 29-12-407-003-0000; 29-12-407-004-0000; 29-12-407-018-0000; 29-12-407-019-0000; 29-12-407-020-0000; 29-12-407-021-0000; 29-12-407-022-0000; 29-12-407-023-0000; 29-12-407-024-0000; 29-12-407-036-0000 AND 29-12-407-037-0000

LEGAL DESCRIPTION:

PARCEL 1:

LOTS 28 TO 34 (EXCEPT THE EAST 5 FEET OF SAID LOTS) IN BLOCK 1 IN FORD CALUMET TERRACE SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 1 TO 5, BOTH INCLUSIVE, (EXCEPT THAT PART OF SAID LOTS LYING NORTHEASTERLY OF A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF SAID LOT 1, DISTANCE 19.99 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTHEASTERLY IN A STRAIGHT LINE A DISTANCE OF 119.96 FEET TO A POINT IN THE EAST LINE OF SAID LOT 5, DISTANCE 31.75 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 5), TOGETHER WITH THE WEST 1/2 OF THE VACATED ALLEY LYING EAST OF AND ADJOINING THAT PART OF LOT 5 DESCRIBED ABOVE, ALL IN BLOCK 1 IN FORD CALUMET TERRACE SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 35 (EXCEPT THE EAST 5 FEET OF SAID LOT AND ALSO EXCEPT THAT PART THEREOF LYING NORTHEASTERLY AND EASTERLY OF A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF SAID LOT 35, DISTANCE 33.08 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE SOUTHEASTERLY ALONG A STRAIGHT LINE A DISTANCE OF 40.69 FEET TO A POINT, DISTANCE 37 FEET SOUTH OF AND MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF SAID LOT 35, SAID POINT BEING ALSO A POINT OF CURVATURE OF A CURVE HAVING A RADIUS OF 80 FEET CONVEX TO THE NORTHEAST; THENCE SOUTHEASTERLY ALONG SAID CURVE A DISTANCE OF 125.6 FEET TO

UNOFFICIAL COPY

A POINT DISTANCE 5 FEET WEST AND MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID LOT 35, SAID PART BEING ALSO A POINT OF TANGENCY ON SAID CURVE; THENCE SOUTH A DISTANCE OF 8 FEET TO A POINT IN THE SOUTH LINE THEREOF, DISTANCE 5 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 35), TOGETHER WITH THE EAST 1/2 OF THE VACATED ALLEY LYING WEST OF AND ADJOINING THAT PART OF LOT 35 DESCRIBED ABOVE, ALL IN BLOCK 1 IN FORD CALUMET TERRACE SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

NON EXCLUSIVE AND/OR PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCELS 1, 2, AND 3 ESTABLISHED PURSUANT TO A DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS DATED MARCH 21, 2001 AND RECORDED MARCH 21, 2001 IN COOK COUNTY, ILLINOIS AS DOCUMENT NO. 0010221048.

Cook County Clerk's Office