

SUBORDINATION, NON-DISTURBANCE AND ATTORNEYS AGREEMENT

THIS AGREEMENT, made and entered into as of the <sup>15th</sup> day of <sup>June</sup> May, 1990 by and between HANDY ANDY HOME IMPROVEMENT CENTERS, INC. ("Tenant") and NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION, a New York corporation ("Lender"), whose address is 51 Madison Avenue, New York, New York.

- A. Lender has agreed to make a mortgage loan (the "Loan") to American National Bank and Trust Company of Chicago, a national banking association, not personally, but as Trustee under Trust Agreement dated April 26, 1987 and known as Trust No. 102624-00 (the "Borrower") in the amount of \$24,450,000.00 to be secured by a mortgage or deed of trust (the "Deed of Trust") on the real property legally described in Exhibit "A" attached hereto (the "Premises"); and
- B. Tenant is the present lessee under a lease dated September 18, 1987 made by Borrower, as Landlord, demising a portion of the Premises and other property (said lease and all amendments thereto being referred to as the "Lease"); and
- C. The loan terms require that Tenant subordinate the Lease and its interest in the Premises in all aspects to the lien of the Deed of Trust and that Tenant attorn to Lender.
- D. In return, Lender is agreeable to not disturbing Tenant's possession and quiet enjoyment of the portion of the Premises covered by the Lease (the "Demised Premises") on the terms and conditions set forth in the Lease, so long as Tenant is not in default under the Lease (after the expiration of any applicable cure period);

NOW, THEREFORE, the parties hereby agree as follows:

1. Subordination. The lease, and the rights of Tenant in, to and under the Lease and the Demised Premises, are hereby subjected and subordinated to the lien of the Deed of Trust and to all of the terms, conditions and provisions thereof.

2. Tenant Not to be Disturbed. So long as Tenant is not in default in the payment of rent or of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed (after the expiration of any applicable cure periods), (a) Tenant's possession and quiet enjoyment of the Demised Premises and Tenant's other rights arising out of the Lease (including, without limitation, any extensions or renewals which may be effected in accordance with the Lease) shall not be diminished or interfered with by Lender or by any purchaser of the Demised Premises pursuant to a foreclosure sale or deed in lieu of foreclosure, and (b) Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Deed of Trust unless such joinder is necessary to foreclose the Deed of Trust and then only for such purpose and not for the purpose of terminating the Lease.

3. Tenant to Attorn to Lender. If Lender shall become the owner of the Premises or the Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Deed of Trust or the Premises shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full

BOX 15

NTS 1987-14  
R46AK

90294362

258 917

UNOFFICIAL COPY

Property of Cook County Clerk's Office

20250413MS

force and effect as a direct Lease between the then owner of the Premises (who shall succeed to the rights and duties of the Landlord) and Tenant upon and subject to all of the terms, covenants and conditions of the Lease for the balance of the term remaining and any extensions or renewals thereunder. Tenant shall attorn to Lender or any other such owner as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments.

4. Notice of Discharge. Borrower shall give notice to Tenant of the reconveyance or other release of the Deed of Trust within 30 days of the date the reconveyance or other release is recorded.

5. Successors and Assigns. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto and their representatives, successors and assigns.

6. Limitations. It is further agreed that Lender or such other purchaser shall not be:

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

b. obligated to cure any defaults of any prior landlord (including Landlord) which occurred prior to the time that Beneficiary of such other purchaser succeeded to the interest of such prior landlord under the Lease other than the obligation of such prior landlord to maintain the premises as required pursuant to Sections 9, 13 and 19 of the Lease and any other default which substantially interferes with Tenant's operations; or

c. subject to any offsets or defenses which Tenant may be entitled to assert against any prior landlord (including Landlord) on account of any act or omission of such prior landlord, except for such right of offset which Tenant may have under the Lease; or

d. bound by any payment of rent or additional rent by Tenant to any prior landlord (including Landlord) for more than one month in advance; or

e. bound by any amendment or modification of the Lease made without the written consent of Lender or such other purchaser which consent shall not be unreasonably withheld or delayed; or

f. liable or responsible for or with respect to the retention, application and/or return to Tenant of any security deposit paid to any prior landlord (including Landlord), whether or not still held by such prior landlord, unless and until Lender or such other purchaser has actually received for its own account as landlord the full amount of such security deposit; or

7. Notices. Concurrently with sending said notice to Landlord, Tenant will notify Lender at the aforesaid address, by registered or certified mail, return receipt requested, of any default of Landlord which would entitle Tenant to cancel the Lease or abate the rent payable thereunder, and agrees that, notwithstanding any provision of the Lease, no notice of cancellation

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2000000000

# UNOFFICIAL COPY

9 0 2 9 4 3 6 2

thereof, nor any abatement, shall be effective unless Lender has failed to cure such default within the applicable cure period provided for in the Lease.

8. **Commission.** Borrower acknowledges that any sum of money owed to Royal LePage pursuant to Section 43 of the Lease has been paid in full.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

**LENDER:**

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

By: *Cristina Johnson* <sup>HRB</sup>  
Its: Real Estate Vice President

**TENANT:**

HANDY ANDY HOME IMPROVEMENT CENTERS, INC.

By: *James R. Roth*  
Its: Vice President

This instrument is not to be construed as a deed, not personally but solely as a trust agreement. The trust is created by the instrument and the trustee is the American National Bank and Trust Company of Chicago, not individually but solely as trustee under Trust No. 102624-00. The trust is created by the instrument and the trustee is the American National Bank and Trust Company of Chicago, not individually but solely as trustee under Trust No. 102624-00. The trust is created by the instrument and the trustee is the American National Bank and Trust Company of Chicago, not individually but solely as trustee under Trust No. 102624-00.

**TRUSTEE:**

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not individually but solely as trustee under Trust No. 102624-00

By: *[Signature]*  
Its: TRUST OFFICER

Property of Cook County Office

90294362

UNOFFICIAL COPY

Property of Cook County Clerk's Office

5/11/2011

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.

On this 15th day of June, 1990 before me personally appeared PATRICIA J. HUDSON to me known to be the Real Estate Vice President of NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand the day and year first above written.

PEGGY S. BERTALDO  
Notary Public, State of New York  
No. 41-4906085  
Qualified in Queens County  
Commission Expires 9/15/94  
Peggy S. Bertaldo  
Notary Public

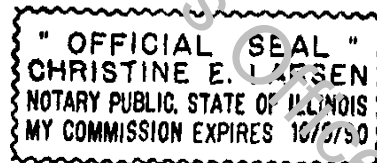
STATE OF Illinois )  
COUNTY OF DeWitt ) ss.

On this 12th day of June, 1990 before me personally appeared Norman G. Pflieger to me known to be the Vice President of First National Bank and Trust Company of Chicago the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand the day and year first above written.

Christine E. Larsen  
Notary Public

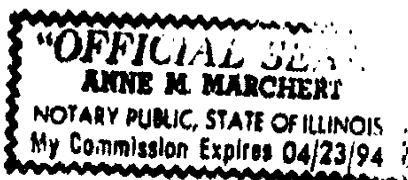
STATE OF Ill )  
COUNTY OF Cook ) ss.



JUN 19 1990

On this 14th day of July, 1990 before me personally appeared Claire R. Kelly to me known to be the Trust Officer of First National Bank and Trust Company of Chicago the Trust Officer that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Trust Officer, for the uses and purposes therein mentioned, and an oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand the day and year first above written.



Anne M. Marchert  
Notary Public

90294362

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/20/2014

SEARCHED  
SERIALIZED  
INDEXED  
FILED  
NOV 20 2014  
CHICAGO, ILL.



# UNOFFICIAL COPY

9 0 2 9 4 3 6 2

## EXHIBIT A - LEGAL DESCRIPTION

### Parcel 1:

That part of a tract of land (hereinafter designated Tract "X") in the West 1/2 of the Northwest 1/4 of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, lying Northerly of a line hereinafter designated line "A", said line "A" being described as follows:

Commencing at the point of intersection of the East line of South Cicero Avenue (being a line 33.00 feet East of and parallel with the West line of said Northwest 1/4) and the South line of Cermak Road (being a line 75.00 feet South of and parallel with the North line of said Northwest 1/4); thence South 0 Degrees 02 Minutes 01 Seconds East, along the East line of South Cicero Avenue, 1026.38 feet to the point of beginning of the aforesaid Line "A"; thence North 89 Degrees 57 Minutes 59 Seconds East, along a line drawn perpendicular to the East line of South Cicero Avenue, a distance of 796.67 feet; thence Northeastly 78.54 feet along the arc of a circle, tangent to the last described line, convex to the Southeast, having a radius of 50.00 feet, and whose chord bears North 44 Degrees 57 Minutes 59 Seconds East 70.71 feet to a point of tangency; thence North 0 Degrees 02 Minutes 01 Seconds West 88.03 feet; thence Northeastly 78.54 feet along the arc of a circle, tangent to the last described line, convex to the Northwest, having a radius of 50.00 feet, and whose chord bears North 44 Degrees 57 Minutes 59 Seconds East 70.71 feet to a point of tangency; thence North 89 Degrees 57 Minutes 59 Seconds East 216.60 feet; thence North 0 Degrees 02 Minutes 01 Seconds West 138.52 feet; thence North 89 Degrees 57 Minutes 59 Seconds East 63.91 feet to the East line of the hereinabove designated Tract "X" (Tract "X" being described as follows:

That part of the West 1/2 of the Northwest 1/4 of Section 27, Township 39 North, Range 13 East of the Third Principal Meridian, bounded and described as follows:

Beginning at the point of intersection of the East line of South Cicero Avenue, being a line 33.00 feet East of and parallel with the West line of said Northwest 1/4, and the South line of Cermak Road, being a line 75.00 feet South of and parallel with the North line of said Northwest 1/4; thence South 89 Degrees 42 Minutes 07 Seconds East along said South line of Cermak Road, 1178.45 feet to the Northeast corner of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded April 9, 1919 as Document No. 6497655, said Northeast corner being 1.47 feet East of a point in said South line of Cermak Road which is 120.00 feet West of the East line of the West 1/2 of said Northwest 1/4; thence South 0 Degrees 04 Minutes 10 Seconds West along the East line of said parcel conveyed by deed recorded as Document No. 6497655, a distance of 1119.66 feet to the Easterly corner of said parcel, said Easterly corner being 13.21 feet East of the West line of land conveyed to Manufacturers' Junction Railway Company by deed recorded August 5, 1904 as Document No. 3575104, (said West line being a line drawn from a point in the South line of Cermak Road which is 87.00 feet West of the West line of the right of way of the Chicago and Western Indiana Railroad to a point in the North line of Ogden Avenue which is 100.00 feet Westerly of the West line of said

90294362

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025/05/02

# UNOFFICIAL COPY

9 0 2 9 4 3 6 2

railroad, as measured on the North line of said Ogden Avenue); thence South 12 Degrees 24 Minutes 06 Seconds West along the Southeasterly line of the aforesaid parcel conveyed by deed recorded as Document No. 6497655, a distance of 64.97 feet to the Southerly corner thereof, being also the Northerly corner of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded April 9, 1919 as Document No. 6497656 (said Northerly corner being a point 1183.20 feet South of the South line of Cernak Road and on the West line of the aforesaid land conveyed by deed recorded as Document No. 3575104); thence South 13 Degrees 22 Minutes 57 Seconds West along the Northwesterly line of said parcel conveyed by deed recorded as Document No. 6497656, a distance of 3.50 feet to the Southwest corner thereof; thence North 89 Degrees 42 Minutes 53 Seconds East along the South line of said parcel conveyed by deed recorded as Document No. 6497656, a distance of 0.77 feet to the Southeast corner thereof, (said Southeast corner being a point 1186.60 feet South of the South line of Cernak Road and on the West line of the aforesaid land conveyed by deed recorded as Document No. 3575104); thence South 0 Degrees 40 Minutes 12 Seconds West along the West line of the aforesaid land conveyed by deed recorded as Document No. 3575104, a distance of 3.55 feet to the Northeast corner of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded April 25, 1907 as Document No. 4025197; thence South 89 Degrees 57 Minutes 59 Seconds West along the North line of said parcel conveyed by deed recorded as Document No. 4025197, a distance of 0.73 feet to a point on the Southeasterly line of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded April 9, 1919 as Document No. 6497655; thence South 12 Degrees 11 Minutes 32 Seconds West along the Southeasterly line of said parcel as conveyed by deed recorded as Document No. 6497655, a distance of 209.18 feet to an angle corner in said parcel; thence South 2 Degrees 53 Minutes 20 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 6497655, a distance of 107.66 feet to the Southerly corner thereof, said Southerly corner being on the West line of a parcel of land as conveyed by the aforesaid deed recorded as Document No. 4025197; thence South 0 Degrees 02 Minutes 01 Seconds East along the West line of said parcel as conveyed by said deed recorded as Document No. 4025197, a distance of 3.42 feet to the Northerly corner of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded April 9, 1919 as Document No. 6497656; thence South 3 Degrees 37 Minutes 59 Seconds West along the Westerly line of said parcel as conveyed by deed recorded as Document No. 6497656, a distance of 94.45 feet to an angle corner in said parcel; thence South 10 Degrees 54 Minutes 52 Seconds West along the Westerly line of said parcel as conveyed by deed recorded as Document No. 6497656, a distance of 33.08 feet to the Southerly corner thereof, said Southerly corner being also the Northerly corner of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded April 9, 1919 as Document No. 6497655; thence South 12 Degrees 45 Minutes 45 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 6497655, a distance of 79.08 feet to a point on the Northwesterly line of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded November 5, 1964 as Document No. 19294210; thence North 44 Degrees 31 Minutes 22 Seconds East along the Northwesterly line of said parcel as conveyed by deed recorded as Document No. 19294210, a distance of 0.20 feet to the

90294362

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025 12 31

# UNOFFICIAL COPY

9 0 2 9 4 3 6 2

Northeast corner thereof; thence South 17 Degrees 19 Minutes 02 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 19294210, a distance of 51.345 feet to an angle corner in said parcel; thence South 25 Degrees 39 Minutes 42 Seconds West along the Easterly line of said parcel as conveyed by deed recorded as Document No. 19294210, a distance of 51.35 feet to the Southeast corner thereof; thence South 89 Degrees 58 Minutes 25 Seconds West along the South line of said parcel as conveyed by deed recorded as Document No. 19294210 and along the North line of a parcel of land conveyed to Manufacturers' Junction Railway Company by deed recorded November 5, 1964 as Document No. 19294211 a distance of 255.36 feet to the Northwest corner thereof; thence South 19 Degrees 35 Minutes 58 Seconds West along the Northwesterly line of said parcel conveyed by deed recorded as Document No. 19294211, a distance of 13.71 feet to the Southwesterly corner of said parcel conveyed by deed recorded as Document No. 19294211, said Southwesterly corner being also the Northeast corner of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded November 5, 1964 as Document No. 19294210; thence along the Southerly lines of said parcel conveyed by deed recorded as Document No. 19294210, said Southerly lines being more particularly described as follows:

Beginning at the Northeast corner of said parcel; thence South 19 Degrees 35 Minutes 22 Seconds West a distance of 78.25 feet to a point; thence South 65 Degrees 06 Minutes 02 Seconds West a distance of 289.38 feet to a point; thence South 89 Degrees 55 Minutes 02 Seconds West a distance of 107.29 feet to a point; thence South 0 Degrees 04 Minutes 58 Seconds East a distance of 86.79 feet to a point; thence South 80 Degrees 58 Minutes 21 Seconds West a distance of 50.69 feet to the Southwest corner of said parcel conveyed by deed recorded as Document No. 19294210, being also the Northeast corner of parcel of land conveyed to Manufacturers' Junction Railway Company by Deed recorded November 5, 1964 as Document No. 19294211; thence along the Northerly, Westerly and Southerly boundary lines of said parcel conveyed by deed recorded as Document No. 19294211, said boundary lines being more particularly described as follows:

Beginning at the Northeast corner of said parcel; thence South 80 Degrees 51 Minutes 57 Seconds West along the Northerly line of said parcel a distance of 300.67 feet; thence South 0 Degrees 02 Minutes 45 Seconds East along the Westerly line of said parcel a distance of 58.14 feet; thence South 55 Degrees 37 Minutes 34 Seconds East along the Southerly line of said parcel a distance of 4.00 feet; thence North 68 Degrees 47 Minutes 36 Seconds East along the Southerly line of said parcel a distance of 137.44 feet; thence continuing North 71 Degrees 41 Minutes 52 Seconds East along the Southerly line of said parcel a distance of 75.25 feet; thence South 18 Degrees 13 Minutes 08 Seconds East along a line in said parcel a distance of 5.09 feet to a corner in said parcel as conveyed by deed recorded as Document No. 19294211, said corner being in the Southeast line of a parcel of land conveyed to Western Electric Company Incorporated by deed recorded May 25, 1955 as Document No. 16247423; thence South 66 Degrees 55 Minutes 49 Seconds West along the Southeast line of said parcel as conveyed by deed recorded as Document No. 16247423, a distance of 134.22 feet to a corner in said parcel; thence South 0 Degrees 02 Minutes 01 Seconds East along a line

90294362

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025/1/28

# UNOFFICIAL COPY

9 0 2 9 4 3 6 2

in said parcel, being a line parallel with the East line of South Cicero Avenue, a distance of 16.18 feet to a point in the Northwestern line of Ogden Avenue per Ordinance adopted September 8, 1888, said point being 125.43 feet (as measured along said Northwestern line of Ogden Avenue) East of the East line of South Cicero Avenue; thence South 77 Degrees 49 Minutes 49 Seconds West along said Northwestern line of Ogden Avenue a distance of 85.43 feet to a point, said point being 40.00 feet (as measured along said Northwestern line) East of the East line of South Cicero Avenue; thence Northwesterly 57.60 feet along the arc of a circle concave to the Northeast having a radius of 32.31 feet, tangent to the last described line and whose chord of 50.27 feet bears North 51 Degrees 06 Minutes 06 Seconds West to its point of tangency with the East line of South Cicero Avenue at a point 40.00 feet North of said Northwestern line of Ogden Avenue; thence North 0 Degree 02 Minutes 01 Seconds West along said East line of South Cicero Avenue, a distance of 2210.18 feet to the hereinabove designated point of beginning, in Cook County, Illinois.)

90294362

DEST-01 RECORDING 117 00  
INDEXED TRAN 8643 06/21/90 09.44.00  
SERIAL \* 13 \* 90-294362  
COOK COUNTY RECORDER

Permanent Index Numbers:

16-27-100-025  
16-27-100-026  
16-27-100-017  
16-27-100-018  
16-27-100-019  
16-27-100-020  
16-27-100-021  
16-27-100-022

Volume: 043

Address: 4701 W. Cermak Rd., Chicago

Prepared By: Wayne VanderVort, Esq.  
90 S. 7th St., Minneapolis, MN

90294362

19

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/15/2011 10:00 AM