

# UNOFFICIAL COPY

Recording Requested By:

91662881

THE CLOTHETIME, INC.  
5325 E. Hunter Ave.  
Anaheim, California 92807

After Recording, Return to:

THE CLOTHETIME, INC.  
5325 East Hunter Avenue  
Anaheim, California 92807  
Attn: Real Estate Counsel  
Clothetime Store #539

DEPT-01 RECORDINGS \$18.50  
748888 TRAM 6764 12/17/91 15:32:00  
16420 \* F \* -91-662881  
COOK COUNTY RECORDER

91662881

## SUBORDINATION, NON-DISTURBANCE AND ATTORMENT AGREEMENT

This agreement, made and entered into this 17<sup>th</sup> day of October, 1991, by and between NBD Chicago Bank, an Illinois banking corporation, whose address is 307 N. Michigan Avenue, Chicago, Illinois 60601 (hereinafter called "Mortgagee"), LaSalle National Trust, N.A., as successor trustee to LaSalle National Bank, not personally but as Trustee under Trust Agreement dated October 1, 1961 known as Trust No. 28684, whose address is 135 S. LaSalle St., Chicago, Illinois 60603 (hereinafter called "Landlord"), and THE CLOTHETIME, INC. whose address is 5325 East Hunter Avenue, Anaheim, California 92807 (hereinafter called "Tenant").

WITNESSETH: The following is a recital of facts underlying this Agreement:

Landlord is the owner and holder of fee simple title in and to certain real property (the "Premises") located in the Village of Arlington Heights, Cook County, Illinois, and more particularly described in Exhibit A attached hereto. Landlord and Tenant have entered a Lease Agreement dated October 7, 1991 (the "Lease") covering a portion thereof commonly known as 322-326 E. Rand Road, Arlington Heights, Illinois 60004.

Mortgagee will be the holder of a Mortgage (the "Mortgage"), covering the Premises to be executed and delivered to Mortgagee by Landlord, as Mortgagor, which Mortgage will be recorded prior to the recordation of this Agreement.

Mortgagee and Tenant desire to establish certain rights, safeguards, obligations and priorities relating to their respective interests in the Premises.

Now, therefore, it is mutually agreed as follows:

1. Provided Tenant is not in default under the terms and conditions of the Lease, then:
  - (a) The right of possession of Tenant to the Premises and Tenant's rights arising under the Lease shall not be affected or disturbed by Mortgagee or the Note secured thereby, nor shall Tenant be named as a party defendant in any action to foreclose the lien of the Mortgage, unless required by law, nor in any other way be deprived of its rights under the Lease.
  - (b) If the Mortgagee or any other person acquires title to the Premises pursuant to the exercise of any remedy provided for in the Mortgage or as a result of a default by Landlord thereunder:
    - (i) The Lease shall not be terminated or affected by any foreclosure or sale or by any such proceeding;

\$18.50

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- i. Mortgagee hereby covenants that any sale by it of the Premises pursuant to the exercise of any rights and remedies under the Mortgage or otherwise shall be made subject to the Lease and the rights of Tenant thereunder;
- (iii) Tenant covenants and agrees to attorn to Mortgagee or such person as its new landlord; and
  - (iv) the Lease shall continue in full force and effect as a direct lease between Tenant and Mortgagee or such other person upon all the terms, covenants, conditions and agreements set forth in the Lease.
- (c) In no event shall the Mortgagee or such person be:
- (i) bound by any payment of rent or additional rent made by the Tenant to Landlord for more than one (1) month in advance;
  - (ii) bound by any security deposit which Tenant may have paid to any prior landlord (including Landlord) unless such deposit is held in an escrow account available to Mortgagee;
  - (iii) bound by any amendment or modification of the Lease made without the consent of the Mortgagee (except as may be permitted by the Assignment of Leases of even date with the Mortgage executed and delivered by Landlord to Mortgagee);
  - (iv) liable for any prior act or omission of any prior landlord (including Landlord) under the Lease;
  - (v) subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or
  - (vi) bound by any provision in the Lease which obligates the landlord to erect or complete any building, to perform any construction work or to make any improvements to the Premises.

2. Subject to the foregoing, the Lease shall be subject and subordinate to the lien of the Mortgage and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications or replacements thereof.

3. The foregoing provisions shall be self-operative and effective without the execution of any further instruments on the part of any party hereto. However, Tenant agrees to execute and deliver to the Mortgagee, or to any person to whom Tenant herein agrees to attorn, such other instruments as either shall request in order to effectuate said provisions.

4. Upon execution hereof and from time to time upon written request by Mortgagee (but not more than once each calendar year), Tenant shall certify to Mortgagee:

- (a) It has accepted possession of the Premises fully and without reservation pursuant to the terms of the Lease and is currently in full occupancy thereof;
- (b) All improvements and space required to be furnished according to the Lease have been completed in all respects;

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- (c) Landlord has fulfilled all of its duties of prudence and good faith under the Lease;
- (d) The commencement and expiration date of the term of the Lease and the date on which Tenant's obligation to pay rent commenced;
- (e) The Lease is in full force and effect and has not been modified, altered or amended;
- (f) Neither Tenant nor Landlord (to be best of the knowledge of Tenant) is in default under the Lease;
- (g) Tenant has no offsets or credits against rentals due or to become due under the Lease;
- (h) The full monthly rental prescribed in the Lease is being paid on a current basis in advance on the date for payment thereof specified in the Lease, and no rentals have been prepaid except as provided by the terms of the Lease; and
- (i) Tenant has no notice of a prior assignment, hypothecation or pledge of the rents of the Lease;

provided, however, that Tenant may note any exceptions to the foregoing on such certification.

5. This Agreement may not be modified other than by an agreement in writing, signed by the parties hereto or by their respective successors in interest.

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

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

Witnessed:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signed:

NBD CHICAGO BANK, an Illinois banking corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

"Mortgagee"

LA SALLE NATIONAL TRUST, N.A.,  
successor to LaSalle National Bank, Trustee  
under Trust No. 28684 and all persons

By: \_\_\_\_\_

Its: \$2 Vice President

"Landlord"

ATTEST:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Assistant Secretary

(Signatures continued on following page)

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RIDER ATTACHED TO AND MADE A PART OF DOCUMENT  
DATED Oct. 17, 1991 UNDER TRUST NO. 28684

This instrument is executed by LA SALLE NATIONAL TRUST, N.A., not personally but solely as Trustee, as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by LA SALLE NATIONAL TRUST, N.A., are undertaken by it solely as Trustee, as aforesaid, and not individually and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against LA SALLE NATIONAL TRUST, N.A., by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this instrument.

FORM XI 0421

91662881

D HWK & PLY HEREIN

PROVIDED BY COOK County Clerk's Office

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WITNESSED:

Andrea Kelly  
[Signature]

THE CLOTHES TIME, INC.

By: [Signature]  
Its: John Ortega II  
Chairman of the Board

"Tenant"

STATE OF ILLINOIS )  
                          ) ss.  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of February, 1990, by [Signature] of NBD CHICAGO BANK, an Illinois banking corporation, on behalf of said corporation.



[Signature]  
Notary Public, Cook County,  
Illinois  
My Comm. Expires: \_\_\_\_\_

STATE OF ILLINOIS )  
                          ) ss.  
COUNTY OF \_\_\_\_\_ )



The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of February, 1990, by \_\_\_\_\_ of \_\_\_\_\_, an Illinois \_\_\_\_\_, on behalf of said \_\_\_\_\_.

Notary Public, \_\_\_\_\_ County,  
Illinois  
My Commission Expires: \_\_\_\_\_

STATE OF CALIFORNIA )  
                          ) ss.  
COUNTY OF ORANGE )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of February, 1990, by John Ortega II the Chairman of The Clothestime, Inc. a Delaware corporation, on behalf of said The Clothestime, Inc.

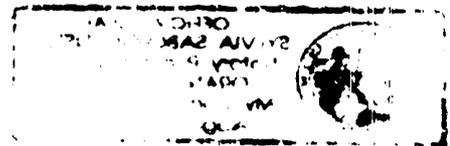


[Signature]  
Notary Public, Orange County,  
State of California  
My Commission Expires: 8/26/94

INSTRUMENT DRAFTED BY AND  
WHEN RECORDED RETURN TO:  
  
William G. Barris, Esq.  
BARRIS, SOTT, DENN & DRIKER  
211 West Fort Street  
Fifteenth Floor  
Detroit, Michigan 48226

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## EXHIBIT "A"

### LEGAL DESCRIPTION--

#### North Point Shopping Center

Lot 1 of Northgate Shopping Center Subdivision of Part of the East 1/2 of the South West 1/4 of Section 17, Township 42 North, Range 11 East of the Third Principal Meridian, In Cook County, Illinois.

#### EXCERPT

That part of Lot 1 of Northgate Shopping Center Subdivision, being a Subdivision of part of the East 1/2 of the Southwest 1/4 of Section 17, Township 42 North, Range 11, East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of said Lot 1; thence Southward along the Westerly line of said Lot 1, being the Easterly line of Arlington Heights Road, South 1 degree 50 minutes 41 seconds East, a distance of 73.57 feet; thence South 00 degrees 17 minutes 45 seconds East, a distance of 470.00 feet; thence south 13 degrees 57 minutes 59 seconds East a distance of 40.00 feet; thence South 33 degrees 05 minutes 01 seconds East, a distance of 37.43 feet to the point of beginning; thence South 33 degrees 05 minutes 01 seconds East, a distance of 7.57 feet; thence Southeasterly along a line being 50.00 feet Northeasterly of and parallel with the centerline of Rand Road, South 48 degrees 24 minutes 05 seconds East, a distance of 389.47 feet; thence South 50 degrees 47 minutes 20 seconds East, a distance of 48.01 feet; thence North 48 degrees 24 minutes 05 seconds West, a distance of 444.74 feet to the point of beginning, all in Cook County, Illinois.

Permanent Index Number: 03-17-301-022-0000

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