

UNOFFICIAL COPY

After recording return to:
METLIFE CAPITAL CORPORATION
Real Estate Department
10900 N.E. 8th St., Suite 1300
Bellevue, WA 98004
Loan No. 2407790-001



91252432

SUBORDINATION, NONDISTURBANCE, ATTORNMEN AND LESSEE-LESSOR ESTOPPEL AGREEMENT

(Bedford Park, Illinois)

DEPT-01 RECORDING \$21.50
T\$1111 TRAN 5892 05/28/91 15:04:00
4852 A *-91-252432
COOK COUNTY RECORDER

This Agreement is entered into as of May 23, 1991, by and between TIBOR MACHINE PRODUCTS, INC., ("Lessee"), whose address is 6350 West Birmingham Street, Chicago Ridge, Illinois 60415 and MetLife Capital Corporation ("METLIFE").

RECITALS

A. Lessee is the present lessee under a lease dated February 1, 1991 made by Ford City Bank (now known as Cole Taylor Bank/Ford City) not personally, but solely as Trustee under Trust Agreement 3905, dated November 1, 1982, Larry H. Overbey and Mary Overbey as Lessor, demising all or a portion of the premises described on Exhibit A (the "Leased Premises").

B. Lessee has been advised that the Lease has been or will be assigned to METLIFE as security for a loan secured by a Mortgage (the "Mortgage") to be recorded concurrently herewith covering the Leased Premises.

C. A condition precedent to METLIFE's disbursement of loan proceeds is that Lessor obtain this Agreement from Lessee in order to confirm certain matters and to subordinate the Lease and Lessee's interest in the Leased Premises to the lien of the Mortgage.

D. It will be of benefit to Lessee if METLIFE disburses the loan proceeds to Lessor.

Now, therefore, the parties hereto agree as follows:

1. Lessee represents and warrants to METLIFE as follows:

- a. Lessee has accepted possession and is in occupancy of the Leased Premises pursuant to the terms of the Lease, and the Lease is in full force and effect.
- b. The improvements and space required to be furnished according to the Lease have been completed in all respects, and Lessee hereby waives any and all rights and remedies which Lessee may have against Lessor (including, without limitation, any right to terminate the Lease) as a result of any breach by Lessor of any of its construction related obligations under the Lease.
- c. Lessor has fulfilled all of its duties of an inducement nature.
- d. The Lease has not been modified, altered or amended, except

CHIAFL\01044.ACM/5.23.91
Seattle

21st Mail

91252432

91252432

UNOFFICIAL COPY

1 6 2

None

(Insert "None," if none.)

- e. There are no offsets or credits against rentals, nor have rentals been prepaid except as provided by the Lease terms, except None

(Insert "None," if none.)

- f. Rental commenced to accrue on Feb. 1, 1991 initial monthly rent is \$ 5,367.00, and there is currently no outstanding unpaid rent. The primary Lease term commenced on Feb. 1, 1991 and expires on Jan. 31, 1991.

- g. Lessee has no notice of a prior assignment, hypothecation or pledge of rents on the Lease.

- h. Lessee has no claims to or interest in the Leased Premises legal or equitable, or any contract or option therefor other than as a Lessee under the Lease.

- i. The existing parking facilities meet Lessee's Lease requirements.

- j. There are no concessions or inducements which have been promised by Lessor or any other party to Lessee other than as set forth in the Lease.

- k. Lessor is not in default of any of its obligations under the Lease and no events have occurred which, with notice, the passage of time or both, would constitute a default in any of Lessor's obligations under the Lease.

2. Lessee shall promptly provide METLIFE at its Real Estate Department, 10900 N.E. 8th St., Suite 1300, Bellevue, WA 98004, with a written notice of any default on the part of the Lessor under the Lease, and Lessee hereby grants to METLIFE the option to cure said default within a reasonable length of time. Lessee further agrees that it shall not invoke any of its remedies under this Lease or any other remedies available to Lessee at law or in equity during any period that METLIFE is proceeding to cure any such default with due diligence, or is taking steps with due diligence to obtain the legal right to enter the Leased Premises and cure any such default.

3. Without the written consent of METLIFE, Lessee shall not (a) modify, extend or in any manner alter the terms of the Lease; (b) pay the rent or any other sums becoming due under the terms of the Lease more than one month in advance; (c) accept Lessor's waiver of, or release from the performance of any obligations under the Lease; or (d) agree with Lessor to terminate the Lease.

4. Should METLIFE advise Lessee that Lessor is in default in the indebtedness to METLIFE and request that payment of all future rentals be made directly to METLIFE, Lessee shall make all future rental payments under the Lease directly to METLIFE until instructed otherwise by METLIFE. Lessee shall not be liable to Lessor for any rental payments actually paid to METLIFE pursuant to this Section 4.

5. Notwithstanding anything in the Lease or any other document to the contrary, Lessee hereby agrees that the Lease and all right, title and

91052432

UNOFFICIAL COPY

interest of Lessee in, to and under the Lease is now, and shall at all times continue to be, unconditionally subject and subordinate in each and every respect, to the Mortgage and to any and all renewals, modifications, extensions, substitutions, replacements and/or consolidations of the Mortgage. Lessee hereby agrees that, for so long as the Mortgage is a lien on the Leased Premises, Lessee will not subordinate the estate of Lessee in the Lease to any future mortgages or deeds of trust or any other security instruments.

6. To the extent that the Lease shall entitle Lessee to notice of any deed of trust, this Agreement shall constitute such notice to Lessee with respect to the Mortgage and Lessee hereby waives notice of any and all renewals, modifications, extensions, substitutions, replacements, and/or consolidations of the Mortgage.

7. The terms "holder of any deed of trust on the fee title of the building", "fee deed of trust", "holder of a deed of trust" or any similar terms in the Lease shall be deemed to include METLIFE, its successors and assigns, including anyone who shall have succeeded to Lessor's interest by, through or under foreclosure of the Mortgage or deed in lieu of such foreclosure. The terms "deed of trust affecting the real property," "deed of trust," or any similar terms, shall be deemed to include the Mortgage to be recorded concurrently herewith securing a note in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000).

8. This Agreement may be modified only by an agreement in writing signed by the parties hereto or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon METLIFE and Lessee, and their successors and assigns.

9. If METLIFE shall become the owner of the Leased Premises or if the Leased Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Mortgage or if the Leased Premises shall be transferred by deed in lieu of foreclosure, then the Lease shall continue in full force and effect as a direct lease agreement between the then owner of the Leased Premises (including METLIFE or the grantee under any deed given as a result of any foreclosure or in lieu of foreclosure) and Lessee, upon and subject to all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, and Lessee does hereby attorn to METLIFE or any other such owner as its Lessor, said attornment to be effective and self-operative without the execution of any further instruments and Lessee shall, from and after METLIFE's or other such owner's succession to the interest of Lessor under the Lease, have the same remedies against METLIFE or such other owner for the breach of any covenant contained in the Lease that Lessee might have had under the Lease against Lessor except that neither METLIFE nor any other such owner shall be:

- (a) liable for any act or omission of, or for the performance of any obligation of, any prior lessor (including Lessor); or
- (b) subject to any offsets or defenses which Lessee might have against any prior lessor (including Lessor); or
- (c) bound by any prepayment of rent or additional rent which Lessee might have paid for more than the current month or by payment of any security deposits to any prior lessor (including Lessor); or
- (d) bound by any amendment or modification of the Lease or by any waiver or forbearance on the part of any prior lessor

UNOFFICIAL COPY

1 2

(including Lessor) made or given without the written consent of METLIFE or any subsequent holder of the Mortgage.

10. This Agreement may be executed in counterparts for the convenience of the parties.

11. To the extent of any conflict between the provisions of the Mortgage and the Lease which govern the application and disbursements of insurance and condemnation proceeds, the provisions of the Mortgage shall govern.

12. So long as Lessee is not in default (beyond any period given Lessee by the terms of the Lease to cure such default) in the payment of rent or additional rent or in the performance of any part of the terms, covenants or conditions of the Lease on Lessee's part to be performed, Lessee's possession of the Leased Premises under the Lease, or any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, shall not be diminished or interfered with by METLIFE and METLIFE will not join Lessee as a party defendant in any action or proceeding for the purpose of terminating Lessee's interest and estate under the Lease because of any default under the Mortgage.

13. The first sentence of Section 18 of the Lease is amended to read as follows: "In case the Premises shall be rendered untenable during the term of this Lease by fire or other casualty, Lessor at his option may terminate the Lease or repair the Premises within 120 days thereafter."

14. This Agreement may be executed in counterparts, each of which shall constitute an original, whether or not all parties execute each counterpart, and all of which together shall constitute one original.

Dated as of the date first above written.

LESSEE:

TIBOR MACHINE PRODUCTS, INC.

By: _____
Its: _____

LENDER:

METLIFE CAPITAL CORPORATION

By: _____
Its: Lloyd R. Worthen
Vice President

Lessor joins in the execution of this document for the purpose of acknowledging and confirming the matters herein set forth.

LESSOR:

Larry H. Overbey

UNOFFICIAL COPY

(including Lessor) made or given without the written consent of METLIFE or any subsequent holder of the Mortgage.

10. This Agreement may be executed in counterparts for the convenience of the parties.

11. To the extent of any conflict between the provisions of the Mortgage and the Lease which govern the application and disbursements of insurance and condemnation proceeds, the provisions of the Mortgage shall govern.

12. So long as Lessee is not in default (beyond any period given Lessee by the terms of the Lease to cure such default) in the payment of rent or additional rent or in the performance of any part of the terms, covenants or conditions of the Lease on Lessee's part to be performed, Lessee's possession of the Leased Premises under the Lease, or any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, shall not be diminished or interfered with by METLIFE and METLIFE will not join Lessee as a party defendant in any action or proceeding for the purpose of terminating Lessee's interest and estate under the Lease because of any default under the Mortgage.

13. The first sentence of Section 18 of the Lease is amended to read as follows: "In case the Premises shall be rendered untenable during the term of this Lease by fire or other casualty, Lessor at his option may terminate the Lease or repair the Premises within 120 days thereafter."

14. This Agreement may be executed in counterparts, each of which shall constitute an original, whether or not all parties execute each counterpart, and all of which together shall constitute one original.

Dated as of the date first above written.

LESSEE:

TIBOR MACHINE PRODUCTS, INC.

By: [Signature]

Its: Secretary

LENDER:

METLIFE CAPITAL CORPORATION

By: _____

Its: _____

Lessor joins in the execution of this document for the purpose of acknowledging and confirming the matters herein set forth.

LESSOR:

[Signature]
Larry H. Overbey

0001-1522/01/0000-0000\$05.00/0

FORD CITY BANK (now known as
Cole Taylor Bank/Ford City),
not personally but solely as
Trustee under Trust Agreement
3905, dated November 1, 1982

ITEM:

STATE OF WASHINGTON)
COUNTY OF KING) NO.

On this 24th day of July, 1990, before me, a Notary Public in and for the State of Washington, personally appeared John R. (DORRIS), personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the Vice President of MetLife Capital Corporation to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

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

NOTARY PUBLIC in and for the State of
Washington, residing at Raymond
My appointment expires 11-30-75

STATE OF ILLINOIS)
) ss.
COUNTY OF)

On this _____ day of _____, 1990, before me, a Notary Public in and for the State of Illinois, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that _____ was authorized to execute the instrument, and acknowledged it as the _____ of JETT CUTTING SERVICE, INC. to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

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

9125-403

UNOFFICIAL COPY

NOTARY PUBLIC

Mary Overbey
Mary Overbey

FORD CITY BANK (now known as
Cole Taylor Bank/Ford City),
not personally but solely as
Trustee under Trust Agreement
3905, dated November 1, 1982

By Mary Overbey
Its Trust Officer

Exhibit A: Leased Premises

STATE OF WASHINGTON)
COUNTY OF KING) ss.

On this 23rd day of May, 1990, before me, a Notary Public
in and for the State of Washington, personally appeared Mary Overbey,
personally known to me (or proved to me on the basis of satisfactory evidence),
to be the person who executed this instrument, on oath stated that he was
authorized to execute the instrument, and acknowledged it as the
of MetLife Capital Corporation to be the free and
voluntary act and deed of said corporation for the uses and purposes mentioned
in the instrument.

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

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My appointment expires _____

STATE OF ILLINOIS)
COUNTY OF Cook) ss.

On this 23rd day of May, 1990, before me, a Notary Public
in and for the State of Illinois, personally appeared Mary Overbey,
personally known to me (or proved to me on the basis of satisfactory evidence),
to be the person who executed this instrument, on oath stated that he was
authorized to execute the instrument, and acknowledged it as the President
of JETT CUTTING SERVICE, INC. to be the free and voluntary act and deed of
said corporation for the uses and purposes mentioned in the instrument.

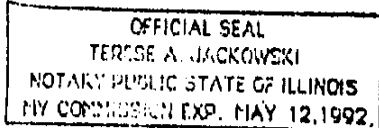
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the
day and year first above written.

EXCULPATORY CLAUSE

It is expressly understood and agreed by and between the undersigned parties hereto to the contrary notwithstanding, that each and all of the undersigned hereby release, defend, hold harmless and agree to indemnify the other party from and against all claims, damages, losses, costs and expenses, including reasonable attorneys' fees, which may be asserted against or incurred by the other party in connection with or arising out of the performance or non-performance of the obligations of the undersigned hereunder, whether or not such claims, damages, losses, costs and expenses are caused in whole or in part by the negligence of the other party.

COLE TAYLOR BANK

UNOFFICIAL COPY

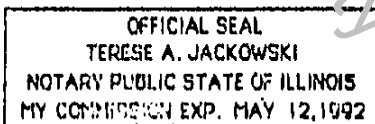


Terese A. Jackowski
NOTARY PUBLIC in and for the State of
Washington, residing at 6446 W. 127th St., Burien, WA 98148
My appointment expires May 12, 1992

STATE OF ILLINOIS)
COUNTY OF Cook) ss.

I, TERESA JACKOWSKI, a Notary Public in and for said County in the state aforesaid, do hereby certify that LARRY H. OVERBEY, 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 voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23rd day of May, 1991.



Terese A. Jackowski (SEAL)
Notary Public

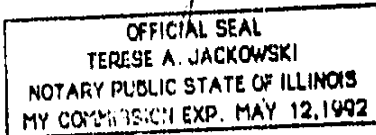
My Commission expires:

May 12, 1992

STATE OF ILLINOIS)
COUNTY OF Cook) ss.

I, TERESA A. JACKOWSKI, a Notary Public in and for said County in the state aforesaid, do hereby certify that MARY OVERBEY, 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 she signed and delivered the said instrument as her own voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23rd day of May, 1991.



Terese A. Jackowski (SEAL)
Notary Public

My Commission expires:

May 12, 1992

STATE OF ILLINOIS)
COUNTY OF Cook) ss.

UNOFFICIAL COPY

On this 24th day of May, 1991, ~~1990~~, before me, a Notary Public in and for the State of Illinois, personally appeared Sandra T. Russell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that she was authorized to execute the instrument, and acknowledged it as the Trust Officer of FORD CITY BANK (now known as COLE TAYLOR BANK/FORD CITY) to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

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

OFFICIAL SEAL
NANCY OGDARD
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. SEPT 25, 1994

Illinois

Nancy Ogdard
NOTARY PUBLIC in and for the State of
~~Washington~~, residing at Burbank
My appointment expires 1994

UNOFFICIAL COPY

Larry H. Overbey and Mary Overbey
Loan No: 2407790-001

EXHIBIT A

(Bedford Park, Illinois)

Legal Description:

Parcel 1

LOTS 1, 2, 9, "F", and "G" IN THE FOURTH INDUSTRIAL SUBDIVISION, BEING A SUBDIVISION OF THE SOUTH EAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Parcel 2

THAT PART OF LOT "E" LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE, TO WIT:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT "E" WHICH IS 211.96 FEET NORTHEASTWARDLY OF THE SOUTH WEST CORNER OF LOT 2 IN FOURTH INDUSTRIAL SUBDIVISION; THENCE NORTHWESTWARDLY AT RIGHT ANGLES TO THE COMMON LINE BETWEEN LOT "E" AND LOT 2 AFORESAID, 30 FEET TO THE NORTHWESTERLY LINE OF SAID LOT "E"; ALL IN THE FOURTH INDUSTRIAL SUBDIVISION, BEING A SUBDIVISION OF THE SOUTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Parcel 3

THAT PART OF LOT 10 LYING EAST OF A LINE DESCRIBED BY BEGINNING AT A POINT 26 FEET EAST OF THE NORTH WEST CORNER THEREOF; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID LOT 10, 315.34 FEET TO A POINT OF CURVE; THENCE SOUTHWESTWARDLY ALONG A CURVED LINE CONCENTRIC TO THE WESTERLY CURVED LINE OF SAID LOT 10, CONVEX TO THE SOUTH EAST AND HAVING A RADIUS OF 268 FEET, A DISTANCE OF 96.83 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID LOT 10, 115.15 FEET NORTHEASTWARDLY OF THE SOUTHERLY CORNER THEREOF, ALL IN THE FOURTH INDUSTRIAL SUBDIVISION, BEING A SUBDIVISION OF THE SOUTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Parcel 4

THAT PART OF LOT 10 LYING WEST OF A LINE DESCRIBED BY BEGINNING AT A POINT 26 FEET EAST OF THE NORTH WEST CORNER THEREOF; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID LOT 10, 315.34 FEET TO A POINT OF CURVE; THENCE SOUTHWESTERLY ALONG A CURVED LINE CONCENTRIC TO THE WESTERLY CURVED LINE OF SAID LOT 10, CONVEX TO THE SOUTH EAST AND HAVING A RADIUS OF 268 FEET, A DISTANCE OF 96.83 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID LOT 10, 115.15 FEET NORTHEASTERLY OF THE SOUTH CORNER THEREOF, ALL IN FOURTH INDUSTRIAL SUBDIVISION, BEING A SUBDIVISION OF THE SOUTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

19-20-17-058

91200430