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## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement ("Agreement") is dated as of this 7 day of August, 1992 by and among CONTINENTAL BANK N.A. (the "Lender"), OFFICE DEPOT, INC., a Delaware corporation (the "Tenant"), and LASALLE NATIONAL TRUST, N.A., not personally, but as successor trustee ("Trustee") to LaSalle National Bank, a national banking association, under Trust Agreement dated October 1, 1983 and known as Trust Number 107166 and ONE SCHAUMBURG PLACE LIMITED PARTNERSHIP ("Beneficiary") (Trustee and Beneficiary are hereinafter referred to jointly and severally as the "Landlord").

### RECITALS

A. Tenant is the tenant and Landlord is the landlord under a certain lease (the "Lease") dated May 14, 1992 covering premises (the "Demised Premises") located in a certain shopping mall to be constructed by Landlord and known as One Schaumburg Place located in Schaumburg, Illinois.

B. Lender has made a loan (the "Loan") to the Landlord, in the amount of One Hundred Six Million Five Hundred Thousand and No/100 Dollars ($106,500,000.00), evidenced by that certain Note ("A Note") in the original principal amount of Forty-Four Million Five Hundred Thousand and No/100 Dollars ($44,500,000.00) dated as of July 27, 1990 from Landlord to Lender and by that certain Note ("B Note") in the original principal amount of Sixty-Two Million and No/100 Dollars ($62,000,000.00) dated as of July 27, 1990 from Landlord to Lender (the A Note and the B Note are hereinafter referred to as the "Notes"). The Loan is secured, among other things, by: (a) that certain Mortgage, Assignment of Leases and Rents and Security Agreement ("Mortgage") of even date with the Notes, encumbering the property legally described on Exhibit A attached hereto and made a part hereof ("Property") that includes the Demised Premises, and the assignment of leases and rents contained therein ("Assignment")

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This document prepared by
and after recording return to:

Julie K. Rademaker, Esq.
Barack, Ferrazzano,
Kirschbaum & Perlman
333 West Wacker Drive, Suite 2700
Chicago, Illinois 60606

DEPT-01 RECORDING $45.50
T#2222 TRAN 8393 09/15/92 12:55:00
#7045 # A *-92-681783
COOK COUNTY RECORDER

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SNDA-79.BP3
June 19, 1992

45.00

relating to the Property; and (b) the other Security Instruments, as defined in the Notes.

C. Lender is unwilling to make the Loan evidenced by the Notes unless, among other things, Landlord and Tenant shall execute and deliver this Agreement to Lender.

D. Tenant is unwilling to execute this Agreement unless Lender shall execute and deliver this Agreement to Tenant.

**AGREEMENT**

For mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Tenant agrees that, subject to the terms of this Agreement, the Lease is and shall be subject and subordinate to the Mortgage and to the Assignment and to all renewals, amendments, modifications, consolidations, replacements and extensions thereof, to the full extent of all amounts from time to time secured thereby, said subordination to have the same force and effect as if the Mortgage, the Assignment, and such renewals, modifications, consolidations, replacements and extensions thereof had been executed, acknowledged, delivered and recorded prior to the Lease, any amendments or modifications thereof and any notice thereof.

2. So long as the Lease is in full force and effect and Tenant is not then in default in payment of rent or in performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed following the giving of notice and/or the expiration of any applicable grace period, if required under the terms of the Lease, Lender agrees that Tenant's right to possession of the Premises and all of the Tenant's related rights and entitlements pursuant to the terms of the Lease shall not be diminished or otherwise interfered with in any manner by Lender in the exercise of any of its rights under the Mortgage or the other Security Instruments. Lender further agrees not to name the Tenant as a party defendant in a foreclosure action pursuant to the Mortgage unless such action is required in order to preserve its rights and remedies under the Mortgage and the other Security Instruments and in the event the Tenant is so named, such action shall not diminish or otherwise interfere with Tenant's rights hereunder.

3. Tenant agrees that, in the event of an entry by Lender pursuant to the Mortgage, a foreclosure of the Mortgage by Lender, the acceptance of a deed in lieu of foreclosure by Lender, or Lender's exercise of any of its rights under the Mortgage or Assignment, Tenant will attorn to and recognize Lender as its landlord under the Lease for the remainder of the term of the Lease (including all extension periods which have been or are hereafter exercised) upon the same terms and conditions as are set forth in the Lease, and Tenant hereby agrees to pay and perform all of the obligations of Tenant pursuant to the Lease.

4. Tenant agrees that, in the event Lender succeeds to the interest of Landlord under the Lease (i) Lender shall be bound to Tenant under the terms of the Lease and Tenant shall have against Lender all remedies for a breach of the terms of the Lease, first occurring on or after the date such interest is transferred, as Tenant had against Landlord, and (ii):

   (a) Lender shall not be liable for any act or omission of any prior landlord (including Landlord);

   (b) Lender shall not be liable for the return of any security deposits, except for deposits actually received by Lender as security for the performance of Tenant's obligations under the Lease;

   (c) Lender shall not be bound by any prepayment of rent, additional rent or any other sums to be paid to, or deposited with, any prior landlord (including Landlord) in excess of said sums due and payable in the then current month;

   (d) Lender shall not be bound by any amendments or modifications of the Lease made without the consent of Lender;

   (e) Lender shall not be subject to any credits, offsets, deductions or defenses which Tenant might have against any prior landlord (including Landlord). This provision shall not be construed to affect any future rights of offset against rent which Tenant may have under the Lease on account of a breach under the Lease by Lender; and

   (f) Lender shall not be liable to the Tenant for the commencement or completion of any construction or installation, or any contribution toward construction or installation, of any improvements upon the

Demised Premises which obligation was to be but was not performed by any prior landlord (including Landlord).

5. Tenant agrees that, notwithstanding any provision of the Lease to the contrary, the terms of the Mortgage shall govern with respect to the disposition of any insurance proceeds or eminent domain awards, and any obligations of Landlord to restore the Property shall, insofar as they apply to Lender, be limited to insurance proceeds or eminent domain awards received by Lender after the deduction of all reasonable costs and expenses incurred in obtaining such proceeds or awards. The foregoing shall not be deemed a waiver or release by Tenant of any of its rights against Landlord or of the Landlord's obligations under the Lease in the event of a casualty or condemnation and Lender hereby acknowledges that from and after the date of any acquisition by Lender of Landlord's interest in and possession of the Property, the terms of the Lease shall be binding upon Lender with respect to the application of insurance proceeds and condemnation awards for the repair and restoration of the Property or the Demised Premises, as the case may be.

6. So long as any of the indebtedness evidenced by the Notes remains unpaid, Tenant agrees to give to Lender a copy of any notice of default under the Lease served by Tenant upon Landlord. Tenant further agrees that, if the Landlord shall have failed to cure such default within the time provided in the Lease, then Lender shall have an additional 10 business days after the expiration of Landlord's cure period (but in no event less than 10 business days after notice of Landlord's default to Lender) within which to cure such default. Until the time allowed as aforesaid for Lender to cure such default has expired without cure, Tenant shall have no right to and shall not, on account of such default, terminate the Lease, reduce rent, or offset or credit any amounts against the rent. Notwithstanding the above, in the event of imminent threat or material damage to person or property or wherein Landlord is expressly obligated under the Lease to provide Tenant with any monetary payment (e.g. allowance or contribution for Tenant's Word) or wherein Tenant is expressly granted the right to terminate the Lease (or any other remedies) in connection with the Landlord's failure to meet certain pre-commencement date obligations (e.g. Landlord's failure to meet certain construction or delivery date obligations), the notice and cure periods to be given to Lender hereunder shall not exceed the notice requirement and

cure periods, if any, expressly provided the Landlord in connection therewith.

7. Subject to the terms of this Agreement, Tenant hereby waives, to the extent permitted by law, the provisions of any statute or rule of law now or hereafter in effect which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect its Lease or the obligations of Tenant under this Agreement by reason of any foreclosure proceeding.

8. So long as the Loan is outstanding, Tenant will provide Lender, upon specific and reasonable request of Lender, with all reasonable information, including, but not limited to, evidence of payment of taxes and insurance (if Tenant is obligated for such payments under the Lease), to which Landlord may be entitled under the Lease.

9. So long as the Loan is outstanding, Lender or its designee may enter upon the Demised Premises at all reasonable times and upon reasonable advance notice to visit or inspect the Property.

10. Any notice to be delivered hereunder shall be in writing and shall be deemed delivered and given on the earlier of: (a) receipt; or (b) the date of delivery or refusal indicated on the return receipt, if deposited in a United States Postal Service depository, postage prepaid, sent by registered or certified mail, return receipt requested, or sent by Federal Express or similar overnight or same day courier, addressed to Lender, Tenant or Landlord, as the case may be, at the respective addresses set forth opposite their names below, or such other address(es) as they may hereafter specify by written notice delivered in accordance herewith:

If to Bank:

Continental Bank N.A.
231 South LaSalle Street
Real Estate Department
Chicago, Illinois 60697
Attn: Mr. Robert Mattson

With a copy to:

Barack, Ferrazzano, Kirschbaum & Perlman
333 West Wacker Drive
Suite 2700
Chicago, Illinois 60606
Attn: Howard J. Kirschbaum, Esq.
Julie K. Rademaker, Esq.

If to Landlord: LaSalle National Trust, N.A.
Number 107166 or One
Schaumburg Place Limited
Partnership
c/o The Tucker Companies
40 Skokie Boulevard
Suite 600
Northbrook, Illinois 60062

and a copy to: Arvey, Hodes, Costello & Burman
180 North LaSalle Street
Suite 3800
Chicago, Illinois 60606
Attn: Robert W. Newman, Esq.
and Thomas Duffy, Esq.

If to Tenant: Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attn: John Grode
Vice President -
Real Estate

and a copy to: Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attn: Richard Blews, Esq.
Legal Department

11. The Term "Lender" as used herein includes any successor or assign of the named Lender herein, including, without limitation, any purchaser at a foreclosure sale, and any successor or assign thereof, and any term "Tenant" as used herein includes any successor and assign of the named Tenant herein.

12. Landlord hereby authorizes Tenant to rely on any written notice of demand from the Lender to make rent and other payments to which Landlord may be entitled to Lender instead of Landlord, whenever such notice or demand is made by Lender under the Assignment and Tenant shall have no liability to Landlord for making such payments to Lender and the amount of all such payments shall be credited against amounts due from Tenant under the Lease.

13. Tenant agrees from time to time, upon request by Lender, to provide Lender with an estoppel certificate certifying that to the best of Tenant's knowledge, except as Tenant may therein describe (giving the nature and extent of same), there are no defaults, claims, offsets or events or circumstances which, with the passage of time or

giving of notice, or both, could become a default or a basis for a claim or offset against Landlord under the lease, and certifying such other matters concerning the Lease and the parties thereto as Lender may reasonably request.

14. Tenant agrees that, notwithstanding anything to the contrary contained herein or in the Lease, in the event Lender shall succeed to the rights of Landlord under the Lease, (a) Tenant shall look solely to Lender's interest in the Property in the enforcement of any claims against Lender, and (b) neither Lender nor any director, officer, employee or agent of Lender shall, under any circumstances, assume or have any personal liability under the Lease and Tenant shall have no rights whatsoever in or against any other assets or properties of Lender, or any director, officer, employee or agent of Lender except as expressly set forth in clause (a) above.

15. To the extent that the Lease shall entitle the Tenant to notice of any mortgage, or of the assignment of the Lease or the rents payable thereunder, this Agreement shall constitute such notice to the Tenant.

16. This Agreement may not be modified orally or in any manner other than 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 the parties hereto, and their respective successors and assigns.

17. Lender may, at its option and without further notice to, or action by, the parties hereto, subordinate the lien of the Mortgage to the Lease and Landlord and Tenant hereby agree to execute any and all such documents and instruments and take such other actions as Lender may reasonably require to evidence such subordination. Upon any such subordination, the terms and provisions of this Agreement shall remain in full force and effect except to the extent that Section 1 hereof is expressly superseded by Lender's action pursuant to this Section 17.

18. This Agreement may be executed in counterparts, each of which shall be deemed an original and any of which may contain the signatures of less than all of the parties hereto, but all of which together shall constitute one and the same instrument.

Witness the execution hereof under seal this 7th day of August, 1992.

LENDER:

CONTINENTAL BANK N.A.

By: _____
Name: Robert Lee McMillan
Title: Vice President

LANDLORD:

ONE SCHAUMBURG PLACE LIMITED PARTNERSHIP, a Delaware limited partnership

By: TUCKER'D OUT INC., an Illinois corporation, its sole General Partner

By: _____
Name: _____
Title: _____

SEE RIDER ATTACHED HERETO AND MADE A PART HEREOF

LASALLE NATIONAL TRUST, N.A., not personally, but solely as Trustee under Trust Agreement dated October 1, 1988 and known as Trust Number 107166

Attest: Nancy A. Stack
Assistant Secretary

By: _____
Name: Joanne Bek
Title: VICE PRESIDENT

TENANT:

OFFICE DEPOT, INC.,
a Delaware corporation

By: _____
Name: Richard Blews
Title: Corporate Counsel/Assistant Secretary

RIDER ATTACHED TO AND MADE A PART OF DOCUMENT
DATED Aug 7, 1992 UNDER TRUST NO. 107166

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 XX 0421

92681783

STATE OF ILLINOIS )
) SS.
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Robert L. Mattson, the Vice President of Continental Bank N.A., 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, sealed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 17th day of August, 1992.

"OFFICIAL SEAL"
CHRISTINE FRANCZYK
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 9-18-93

Christine Franczyk
Notary Public

My Commission Expires: 9-18-93

STATE OF ILLINOIS )
) SS.
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Lemuel L. Tucker, the President of Tucker'd Out Inc., the sole General Partner of One Schaumburg Place Limited Partnership, 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, sealed and delivered the said instrument as his own free and voluntary act and for the uses and purposes therein set forth.

Given under my hand and official seal, this 14th day of August, 1992.

Notary Public

My Commission Expires: _____

OFFICIAL SEAL
DONNA M. STANKE
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. MAR.20,1993

92681783



SHDA-79.BP3
June 19, 1992

STATE OF ILLINOIS )
) SS.
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Corinne Bek VICE PRESIDENT, NANCY A. STACK, the ASSISTANT SECRETARY of LaSalle National Trust, N.A., not personally, but solely as Trustee under Trust Agreement dated October 1, 1983 and known as Trust Number 107166, 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, sealed and delivered the said instrument as his own free and voluntary act and for the uses and purposes therein set forth.

Given under my hand and official seal, this 7 day of August, 1992.

"OFFICIAL SEAL"
Harriet Denisewicz
Notary Public, State of Illinois
My Commission Expires Oct. 30, 1996

Harriet Denisewicz
Notary Public

My Commission Expires: _____

STATE OF FLORIDA )
) SS.
COUNTY OF PALM BEACH )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Richard Blews, the Corporate Counsel/Assistant Secretary, of Office Depot, Inc., a Delaware corporation, 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, sealed and delivered the foregoing instrument as his own free and voluntary act, on behalf of said corporation, and for the uses and purposes therein set forth.

Given under my hand and official seal, this 28th day of July, 1992.

Elizabeth R. Junge
Notary Public

Notary Public, State of Florida
My Commission Expires April 24, 1993
Bonded Thru Troy Fain Insurance Inc.

My Commission Expires: _____

92681783

## EXHIBIT A

## LEGAL DESCRIPTION

PARCEL 1:

THAT PART OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THAT PART OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING 3.14 CHAINS NORTH OF THE SOUTH EAST CORNER OF SAID SECTION 13; THENCE NORTH 7 DEGREES EAST 33.10 CHAINS TO THE SOUTH BOUNDARY OF A CONVERSE LANDS; THENCE NORTH 84 DEGREES WEST 24.20 CHAINS TO WEST SIDE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 13; THENCE SOUTH ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 13 AFORESAID, 30.80 CHAINS TO CENTER OF HIGGINS ROAD; THENCE SOUTH 77 DEGREES 10 MINUTES EAST 20.55 CHAINS TO THE PLACE OF BEGINNING, (EXCEPT THAT PART THEREOF TAKEN FOR HIGHWAYS AND EXCEPT THAT PORTION CONVEYED TO FOREST PRESERVE DISTRICT OF COOK COUNTY, ILLINOIS BY DOCUMENT NUMBER 17128832 RECORDED FEBRUARY 7, 1958 AND DOCUMENT NUMBER 17227068, RECORDED JUNE 6, 1958 AND EXCEPTING THAT PART LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE NORTHERLY LINE OF HIGGINS ROAD (ROUTE 72) DISTANT 550.0 FEET WESTERLY OF THE EAST LINE OF THE SOUTH EAST 1/4 OF AFORESAID SECTION 13; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE, EXTENDED TO INTERSECT THE NORTH LINE OF THE SOUTH EAST 1/4 OF SAID SECTION 13 AT A POINT 265.0 FEET WEST OF THE NORTH EAST CORNER OF SAID SECTION) IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS SET FORTH AND DEFINED IN THE GRANT OF EASEMENT RECORDED AS DOCUMENT NUMBER 26081425, OVER, UPON AND UNDER THE FOLLOWING DESCRIBED REAL ESTATE: THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID; THENCE SOUTH ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID A DISTANCE OF 62.7 FEET TO THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ALONG A LINE PARALLEL WITH THE SOUTHERLY LINE OF WOODFIELD ROAD PER DOCUMENT NUMBER 20944554 TO ITS INTERSECTION WITH THE WESTERLY LINE OF LAND DESCRIBED IN DOCUMENT NUMBER 20797704; THENCE NORTHEASTERLY ALONG SAID WESTERLY LINE TO THE SOUTHERLY LINE OF WOODFIELD ROAD AFORESAID; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE TO THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID; THENCE SOUTH ALONG SAID WEST LINE TO THE POINT OF BEGINNING (EXCEPT THEREFROM THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID; THENCE SOUTH ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 13 AFORESAID A DISTANCE OF 62.7 FEET; THENCE SOUTHEASTERLY ALONG A LINE PARALLEL WITH THE SOUTHERLY LINE OF WOODFIELD ROAD PER DOCUMENT NUMBER 20944554 FOR A DISTANCE OF 357.50 FEET TO THE POINT OF BEGINNING OF THIS EXCEPTION; THENCE CONTINUING ALONG SAID PARALLEL LINE 35.0 FEET; THENCE NORTHEASTERLY TO A POINT ON THE SOUTHERLY LINE OF WOODFIELD ROAD AFORESAID 417.50 FEET (AS MEASURED ON SAID SOUTHERLY LINE) SOUTHEASTERLY OF THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST



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QUARTER OF SECTION 13 AFORESAID; THENCE NORTHWESTERLY ALONG THE SOUTHERLY LINE OF WOODFIELD ROAD AFORESAID 85.0 FEET; THENCE SOUTHEASTERLY TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

17-13-401-005, 006, 007 + 008

Tx # →

ADDRESS → 1800 E. Higgins Road,
Schaumburg, IL.



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