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LEASE SUBORDINATION,  
NONDISTURBANCE AND ATTORNEYMENT AGREEMENT

BY

AND

DEPT-01 RECORDING \$39.50

FLEET NATIONAL BANK

T#3333 TRAN 9036 11/25/92 11:29:00

#8559 # \*\*92-886384

\*\*\*\*\*

COOK COUNTY RECORDER

THIS AGREEMENT is made and entered into by and between Circuit City Stores, Inc., a Virginia corporation having a place of business at 5950 Mayland Drive, Richmond, Virginia 23233 (the "Tenant"), and FLEET NATIONAL BANK, a national banking association having its principal place of business at 111 Westminister Street, Suite 800, Providence, Rhode Island 02903 (the "Mortgagee").

WITNESSETH THAT:

WHEREAS, Orland Hills I Partnership, an Illinois general partnership (the "Partnership") and the Tenant have entered into a Lease dated as of October 22, 1992 concerning approximately 33,000 square feet of space within the Orland Towne Center Subdivision, Orland Hills, Illinois, which subdivision is more fully described on Exhibit A attached hereto (the "Project"), which Lease has been or may be amended from time to time as provided herein (the "Lease"); and

WHEREAS, the Mortgagee is about to make a \$3,600,000 loan to American National Bank, as trustee under trust number 115807-01 (the "Borrower"), whose beneficial owner is Orland Towne Center Limited Partnership, an Illinois limited partnership ("OTCLP") relating to the Project; and

WHEREAS, contemporaneously with the closing of the aforementioned loan, the Partnership will assign all of its right, title and interest in, to and under the Lease to Borrower and OTCLP (the Partnership, together with its successors in interest, including the Borrower and OTCLP, being herein collectively referred to as the "Landlord"); and

WHEREAS, the Borrower has secured or will secure such loan by mortgaging all of its right, title and interest in and to the Project as provided in a certain Mortgage Deed and Security Agreement delivered or to be delivered by the Borrower to the Mortgagee, as the same may be renewed, modified, consolidated, replaced or extended thereafter (the "Mortgage"); and

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ENCLOSURE

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NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, for and in consideration of the sum of One Dollar (\$1.00) by each to the other paid, the receipt whereof is hereby acknowledged, and in consideration of the premises and of the mutual promises, covenants and agreements herein contained, hereby promise, covenant and agree as follows:

1. As an inducement to the Mortgagee to enter into the aforesaid transactions, the Tenant hereby agrees as follows:

(a) The Lease and any and all liens, estates, rights, options and charges created thereby are hereby made, and shall hereafter be, subject and subordinate to the lien created by the Mortgage and the lien(s) created by any related documents. Landlord and Tenant hereby expressly subordinate to the Mortgage any and all options to purchase the Project contained in the Lease or in any modification or amendment to the Lease, and further acknowledge that any right of first refusal which Tenant may have pursuant to the terms of the Lease shall not be applicable to Mortgagee's acquisition of the Project by foreclosure or otherwise.

(b) Upon demand and notice from the Mortgagee of the Landlord's default under the Mortgage, the Tenant shall pay to the Mortgagee all rents, issues and profits accruing or due to the Landlord under the Lease from and after the receipt of such demand and notice. This payment shall be deemed to satisfy such obligations of the Tenant under the Lease. Landlord approves the provisions of this subparagraph 1(b) by its execution of this Agreement.

(c) Following the sale of the Project through foreclosure or otherwise, the Tenant shall attorn to the purchaser at said sale (the "Purchaser") as the direct tenant of the Purchaser.

(d) Neither the Mortgagee if the Mortgagee takes possession of the Project nor the Purchaser shall be (i) liable for any act or omission of the Landlord or any other owner of the Project relating to matters occurring prior to the date of its possession or purchase and shall thereafter be liable only during the period of time it possesses or owns the Project, (ii) personally liable for any default under the Lease or any covenant or obligation on its part to be performed thereunder as Lessor, it being acknowledged that Tenant's remedies in the event of such default shall be as set forth in, and limited by, the provisions of Paragraph 31 of the Lease, (iii) bound by any minimum rent which the Tenant may have paid to the Landlord or any other owner for more than the current month or by any additional rent permitted to be paid under the Lease which the Tenant may have paid to the Landlord or any other owner more than thirty (30) days in advance, (iv) bound by any security

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deposits which the Tenant might have paid to the Landlord or any other owner or (v) bound by any amendment or modification of the Lease made without the Mortgagee's consent.

2. In consideration of the agreement and covenants of the Tenant, the Mortgagee hereby agrees that so long as the Tenant is not in default under the Lease:

(a) The Tenant's possession of the Project, use of its leased premises in the Project and all other rights of the Tenant in accordance with the terms and conditions of the Lease shall remain undisturbed whether or not the Mortgage is in default and notwithstanding a foreclosure or other action brought by the Mortgagee on or in connection with the Mortgage.

(b) In the event of foreclosure or any enforcement of the Mortgage, the Tenant shall not be named as a party defendant in such litigation and the Purchaser at such foreclosure sale shall be bound to the Tenant for the term of the Lease and the rights of the Tenant thereunder shall survive.

(c) All the terms and conditions of the Lease and the obligations of the Landlord and Tenant thereunder shall remain in full force and effect except as specifically modified in any writing signed by the parties hereto.

3. With respect to the disposition of insurance proceeds and condemnation awards, as between Mortgagee and Tenant, Mortgagee hereby consents to the provisions of Paragraphs 15 and 16 of the Lease. Notwithstanding the foregoing, in the event that all or any portion of such insurance proceeds or condemnation awards are not used or necessary for the purpose of rebuilding, then such amounts shall be applied in accordance with the terms of the Mortgage.

4. Any notices or other communications given under this Agreement shall be in writing and shall be given by certified or registered mail, return receipt requested, at the addresses set forth above, except that in the case of the Mortgagee they should be sent to the attention of Loan Administration Department Head.

5. Tenant shall give Mortgagee or any successor Mortgagee, by certified or registered mail, a copy of any notice of default served upon the Landlord at the address set forth above, or at such other address which Mortgagee may notify Tenant in writing from time to time. Tenant further agrees that if the Landlord shall have failed to cure such default within the time provided for in the Lease, unless (a) the Tenant in good faith deems the matter to be an emergency, or (b) the default concerns only Landlord's failure to commence

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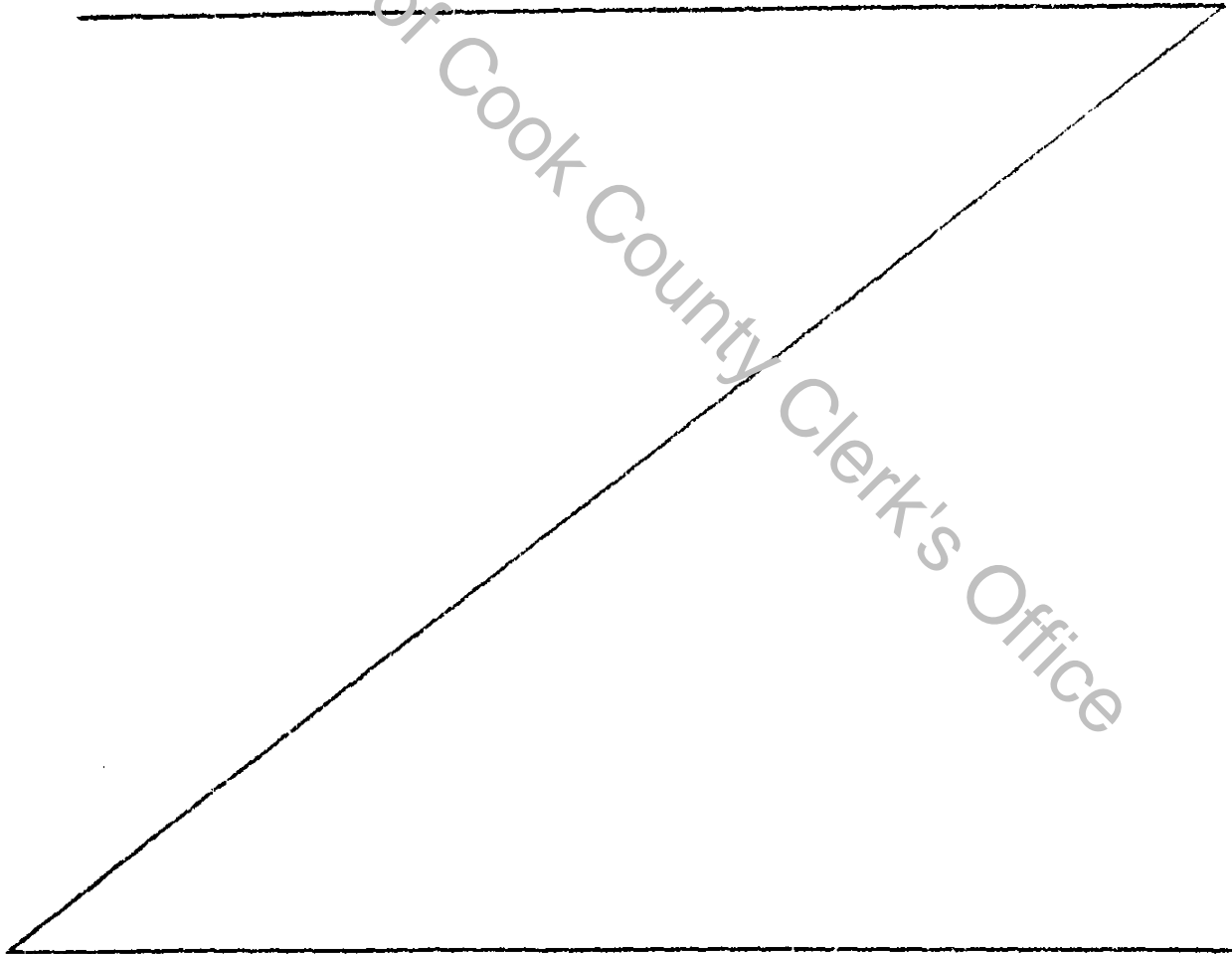
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construction of the Improvements by February 1, 1993, Mortgagee shall have an additional thirty (30) days within which to cure such default.

6. This Agreement is binding and shall inure to the benefit of the parties, their successors and assigns, and may be altered only by written instrument executed by each of the parties hereto or their successors or assigns. Upon satisfaction and discharge of the Mortgage, this Agreement shall terminate and the parties hereto shall have no further obligations hereunder.

7. Subject to Mortgagee's rights under Paragraph 5 above, Mortgagee does hereby consent to the provisions of Paragraph 2(f) of Exhibit C to the Lease, including Tenant's



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self-help remedies and rental reduction rights as therein set forth.

IN WITNESS WHEREOF, this Agreement has been executed under seal as of the 22<sup>nd</sup> day of October, 1992 by the duly authorized officers of the parties hereto.

**WITNESSES**

*[Handwritten Signature]*  
*[Handwritten Signature]*

**TENANT:**

CIRCUIT CITY STORES, INC.

By: *Benjamin B. Cumming, Jr.*  
Its: *V.P.*

**MORTGAGEE:**

FLEET NATIONAL BANK,  
NATIONAL ASSOCIATION

By: *[Handwritten Signature]*  
Its: \_\_\_\_\_

The undersigned acknowledge and approve the terms and conditions of the foregoing Lease Subordination, Nondisturbance and Attornment Agreement as of this \_\_\_\_\_ day of October, 1992.

**WITNESSES**

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

**LANDLORD:**

ORLAND HILLS I PARTNERSHIP,  
an Illinois general  
partnership

By: ORLAND HILLS LIMITED  
PARTNERSHIP, a Texas  
limited partnership and  
one of its general  
partners

By: ORHILLS PROPERTY  
COMPANY, INC., a  
Delaware  
corporation,  
general partner

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

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self-help remedies and rental reduction rights as therein set forth.

IN WITNESS WHEREOF, this Agreement has been executed under seal as of the \_\_\_\_\_ day of October, 1992 by the duly authorized officers of the parties hereto.

WITNESSES

TENANT:

CIRCUIT CITY STORES, INC.

James P. Saunders

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

\_\_\_\_\_

MORTGAGEE:  
FLEET NATIONAL BANK,  
NATIONAL ASSOCIATION

\_\_\_\_\_

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

The undersigned acknowledge and approve the terms and conditions of the foregoing Lease Subordination, Nondisturbance and Attornment Agreement as of this 28<sup>th</sup> day of October, 1992.

WITNESSES

LANDLORD:

ORLAND HILLS I PARTNERSHIP,  
an Illinois general  
partnership

James P. Saunders

By: ORLAND HILLS LIMITED  
PARTNERSHIP, a Texas  
limited partnership and  
one of its general  
partners

James P. Saunders

By: ORHILLS PROPERTY  
COMPANY, INC., a  
Delaware  
corporation,  
general partner

By: Russ McWalt  
Its: Vice Pres

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[FOR TENANT]

STATE OF Virginia )  
COUNTY OF Henrico ) SS

In Henrico County, Virginia on this 22<sup>nd</sup> day of October, 1992 before me personally appeared Raymond B. Cummings Sr. the Vice President of Circuit City Stores, Inc., to me known and known by me to be the person executing the foregoing instrument and he/she acknowledge said instrument by him/her executed to be his/her free act and deed in said capacity and the free act and deed of said Tenant.

Joyce C. Woodson  
Notary Public

Print Name Joyce C. Woodson  
My Commission expires 5/31/95

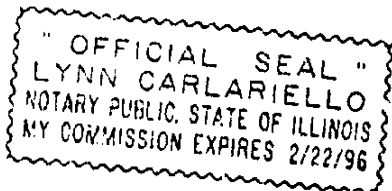
[FOR MORTGAGEE]

STATE OF Illinois )  
COUNTY OF Cook ) SS

In Chicago, Ill. on this 1<sup>st</sup> day of November, 1992 before me personally appeared Michael A. James the \_\_\_\_\_ of Fleet National Bank, to me known and known by me to be the person executing the foregoing instrument and he/she acknowledge said instrument by him/her executed to be his/her free act and deed in said capacity and the free act and deed of said Mortgage.

Lynn Carlariello  
Notary Public

Print Name LYNN CARLARIELLO  
My Commission expires 2/22/96



[FOR LANDLORD]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

In \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 1992 before me personally appeared \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_, to me known and known by me to be the person executing the foregoing instrument and he/she acknowledge said instrument by him/her executed to be his/her free act and deed in said capacity and the free act and deed of said Landlord.

\_\_\_\_\_  
Notary Public

Print Name \_\_\_\_\_  
My Commission expires \_\_\_\_\_

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[FOR TENANT]

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

In \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ before me personally appeared \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_, to me known and known by me to be the person executing the foregoing instrument and he/she acknowledge said instrument by him/her executed to be his/her free act and deed in said capacity and the free act and deed of said Tenant.

\_\_\_\_\_  
Notary Public

Print Name \_\_\_\_\_  
My Commission expires \_\_\_\_\_

[FOR MORTGAGEE]

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

In \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 1992 before me personally appeared \_\_\_\_\_ the \_\_\_\_\_ of Fleet National Bank, to me known and known by me to be the person executing the foregoing instrument and he/she acknowledge said instrument by him/her executed to be his/her free act and deed in said capacity and the free act and deed of said Mortgage.

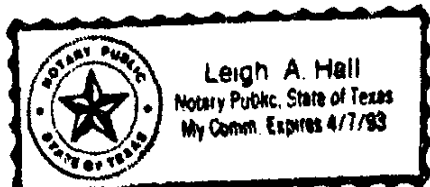
\_\_\_\_\_  
Notary Public

Print Name \_\_\_\_\_  
My Commission expires \_\_\_\_\_

[FOR LANDLORD]

STATE OF TEXAS )  
 ) SS  
COUNTY OF Dallas )

In Dallas, Texas on this 19th day of October, 1992 before me personally appeared J. Russell Williams the Vice President of Cohills Property Company, to me known and known by me to be the person executing the foregoing instrument and he/she acknowledge said instrument by him/her executed to be his/her free act and deed in said capacity and the free act and deed of said Landlord.



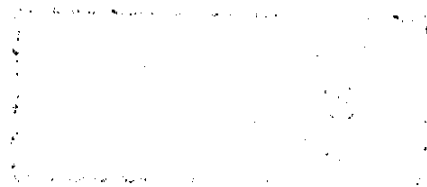
Leigh A. Hall  
Notary Public

Print Name Leigh A. Hall  
My Commission expires 4/7/93

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## EXHIBIT A

Lots 1, 2 and 3 in Orland Towne Center Subdivision, being a subdivision of part of the Northeast Quarter of Section 22, Township 36 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

PROPERTY, 159TH ST. AND 94TH AVE.  
ADDRESS ORLAND HILLS, IL.

P.I.N. 27-280101-013; 014; 015;  
020 AND 021

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## EXHIBIT A

Lots 1, 2 and 3 in Orland Towne Center Subdivision, being a subdivision of part of the Northeast Quarter of Section 22, Township 36 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

PROPERTY, 159TH ST. AND 94TH AVE.  
ADDRESS, ORLAND HILLS, IL.

P.I.N. 27-22-101-013; 014; 015;  
020 AND 021

Prepared by Michael Ross  
& Mail to Sebastian Bissel; Bureau  
222 N. LaSalle - #1918  
Chgo. Ill. 60601



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