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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT is made as of this day of September 22, 1994 by and among Mutual of America Life Insurance Company, having its principal office and place of business c/o Aldrich, Eastman & Waltch, L.P., 225 Franklin Street, Boston, Massachusetts 02110 ("Lender"), American National Bank & Trust Company of Chicago, as Trustee under a Trust Agreement dated March 24, 1993 and known as Trust No. 116762-02, whose address is c/o Tennis Corporation of America, 2020 W. Fullerton Avenue, Chicago, Illinois 60647 ("Landlord"), and Fresh Fields Markets, Inc. whose address is 4948 Boiling Brook Parkway, Rockville, Maryland ("Tenant")

RECORDING \$41.50
 T45555 TRAN 7557 10/24/94 15:46:00
 #2010 J.J. #--94--908042
 COOK COUNTY RECORDER

WITNESSETH

WHEREAS, Landlord and Tenant have entered into a certain lease dated November 3, 1993 covering premises (the "Premises") on the real property (the "Property") more particularly described in Exhibit "A" attached hereto and incorporated herein as amended by that First Amendment to Lease dated August 8, 1994 (the Lease and First Amendment to Lease being collectively referred to herein as the "Lease"); and

WHEREAS, Lender has agreed to make a loan (the "Loan") to Landlord to be evidenced by a certain promissory note issued by Landlord to Lender (the Note); and

WHEREAS, the Note is to be secured by a certain mortgage and security agreement (the "Mortgage") and by a certain assignment of leases and rents (the "Assignment") encumbering, inter alia, the Premises; and

WHEREAS, it is a condition precedent to obtaining the Loan that the Mortgage be a lien or charge upon the premises unconditionally prior and superior to the Lease and the leasehold interest of Tenant thereunder; and

WHEREAS, Tenant acknowledges that the Mortgage, when recorded, will constitute a lien or charge upon the Premises which is unconditionally prior and superior to the Lease and the leasehold interest of Tenant thereunder; and

WHEREAS, Lender has been requested by Tenant and by Landlord to enter into a non-disturbance agreement with Tenant;

This instrument has been prepared by Charles C. Ames, Esq., Hill & Barlow, One International Place, Boston, Massachusetts 02110.

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NOW THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto mutually covenant and agree as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of Tenant thereunder in and to the Premises are and shall be subject and subordinate to the Mortgage and to all of the terms and conditions contained therein, and to any renewals, modifications, replacements, consolidations and extensions thereof; subject to Tenant's rights under the Lease with the right to use the insurance proceeds following a casualty or the condemnation proceeds following a taking.

2. Lender consents to the Lease and, in the event Lender comes into possession of or acquires title to the Premises as a result of the foreclosure or other enforcement of the Mortgage or the Note, or as a result of any other means, Lender agrees that, so long as Tenant is not then in default hereunder or under the Lease beyond any applicable notice and cure period, Lender will recognize Tenant and all of its rights under the Lease and will not disturb Tenant in its possession of the Premises for any reason other than one which would entitle Landlord to terminate the Lease under its terms or would cause, without any further action by Landlord, the termination of the Lease or would entitle Landlord to dispossess Tenant from the Premises.

3. Tenant agrees with Lender that if the interests of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or any other manner, or shall be conveyed thereafter by Lender or shall be conveyed pursuant to a foreclosure sale of the Premises, and in connection therewith Lender assumes the executory obligations of Landlord under the Lease, Tenant shall be bound to Lender under 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, with the same force and effect as if Lender were the Landlord under the Lease, and Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Premises. Tenant agrees, however, upon written request by Lender, to execute an instrument in confirmation of the foregoing provisions, satisfactory to Lender, in which Tenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy under the Lease.

4. Tenant agrees with Lender that if Lender shall succeed to the interest of Landlord under the Lease, Lender shall not be (a) liable for any action or omission of any prior landlord (including

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Landlord) or any other party with whom Tenant has dealt concerning the Premises, other than liability for defaults under the Lease and then only to the extent that such defaults exist on or after the date Lender comes into possession of or acquires absolute title to the Premises, or (b) subject to any offsets or defenses which Tenant might have against any such prior landlord, or (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any such prior landlord, or (d) bound by any security deposit or last month rent that Tenant may have paid in an aggregate amount greater than two (2) times the rent for the then current month, and in any event, Lender shall not be liable or accountable for any security deposit required by Landlord under the Lease, unless such sums have actually been received by Lender as cash security for Tenant's performance of the Lease made without Lender's written consent, or (f) bound by any notice of termination given by Landlord to Tenant without Lender's written consent thereto, or (g) personally liable under the Lease (Landlord and Tenant expressly agreeing that any liability of Lender under the Lease shall be limited to the ownership interest of Lender in the Premises).

5. In the event that Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including any action in order to terminate, rescind or void the Lease or to withhold any rental thereunder, for thirty (30) days after receipt of such written notice by Lender (the "Cure Period"), such period to continue for an additional period (i) if Lender has commenced and is diligently pursuing the remedies necessary to cure any such act or omission (including, without limitation, commencement of foreclosure proceedings, if necessary to cure any such act or omission); and (ii) for any period of time during which Lender is prevented from commencing or pursuing such foreclosure proceedings because of bankruptcy or other judicial proceedings initiated by Landlord or any other party.

6. Landlord has agreed in the Mortgage and in the Assignment that the rentals payable under the Lease shall be paid directly by Tenant to Lender upon the occurrence of a default by Landlord under the Mortgage beyond any applicable notice and cure period. Accordingly, after notice is given by Lender to Tenant that the rentals under the Lease should be paid to or on the directions of Lender, Tenant shall pay to Lender, or in accordance with the directions of Lender, all rentals and other moneys due and to become due to Landlord under the Lease, or amounts equal thereto. Tenant shall have no responsibility to ascertain whether such demand by Lender is permitted under the Mortgage or the Assignment. Landlord hereby waives any right, claim or demand it may now or hereafter have against Tenant by reason of such payment to Lender,

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and any such payment to Lender shall discharge the obligations of Tenant to make such payment to Landlord.

7. Tenant hereby covenants and agrees directly with Lender that Lender shall have the benefit of all of the rights of the holder of a mortgage provided for in the Lease.

8. Tenant represents and warrants as of the date hereof that:

(a) the Lease is in full force and effect and there are no amendments, modifications or supplements thereto, and the Landlord's rights and Tenant's obligations under the Lease are not subject to or affected by any separate agreement, including any agreement between Tenant and Landlord or any party affiliated with Landlord;

(b) Tenant has accepted and taken possession of the Premises and is in occupancy thereof;

(c) Landlord has satisfied all commitments made to induce Tenant to enter into the Lease and Landlord is not in any respect in default in the performance of the terms and provisions of the Lease;

(d) there are no existing defenses which the undersigned has against the full enforcement of the Lease by Landlord, and, except as otherwise set forth in the Lease, there are no offsets or credits against rentals payable under the Lease, and no free periods of rent or other concessions have been granted to Tenant; and

(e) Tenant is not in any respect in default in the performance of the terms and conditions of the Lease.

9. Tenant declares, agrees and acknowledges that:

a. Lender, in making disbursements pursuant to any agreement relating to the Loan, is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement shall not defeat the subordination herein made in whole or in part; and

b. Tenant intentionally and unconditionally waives, relinquishes and subordinates the Lease and its leasehold interest thereunder in favor of the lien or charge upon said land of the Mortgage, and that in consideration of this waiver, relinquishment and subordination, specific loans and advances are being and will be made by Lender to Landlord and, as part and parcel thereof, specific monetary and other obligations are being and will be

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entered into by Landlord and Lender which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

10. This Agreement shall bind and inure to the benefit of the parties hereto, their successors and assigns. As used herein the terms "Tenant" shall include Tenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure; and the word "Lender" shall include the Lender herein specifically named and any of its successors, participants and assigns, including anyone who shall have succeeded to Landlord's interest in the Premises by, through or under foreclosure of the Mortgage.

11. All notices, consents and other communications pursuant to the provisions of this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, or by a reputable commercial overnight carrier that provides a receipt, such as Federal Express or Airborne, and shall be deemed given when postmarked (or deposited with such carrier, as the case may be) and addressed as follows:

If to Lender: Mutual of America Life Insurance Company
c/o Aldrich, Eastman & Waltch, L.P.
225 Franklin Street
Boston, Massachusetts 02110
Attn: J. Grant Monahan, Esq.

with a copy to: Hill & Barlow
One International Place
Boston, Massachusetts 02110
Attn: Charles C. Ames, Esq.

If to Tenant: Fresh Fields Markets, Inc.
4948 Boiling Brook Parkway
Rockville, Maryland 20852
Attn: Maurice Kriendler

with a copy to: Venable, Baetjer and Howard
210 Allegheny Avenue
Towson, Maryland 21285
Attn: J. Michael Brennan, Esq.

If to Landlord: American National Bank & Trust Company
of Chicago as Trustee under Trust
No. 116762-02
c/o Tennis Corporation of America
2020 W. Fullerton Avenue
Chicago, Illinois 60647

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with a copy to:

Johnson & Bell, Ltd.
Suite 2200
222 North LaSalle Street
Chicago, Illinois 60601
Attn: Thomas W. Murphy, Esq.

or to such other address as shall from time to time have been designated by written notice by such party to the other parties as herein provided.

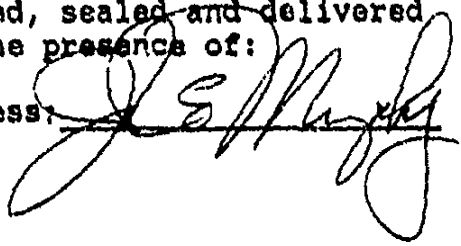
12. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the Lease and the leasehold interest of Tenant thereunder to the lien or charge of the Mortgage in favor of Lender, and shall supersede and control any prior agreements as to such, or any, subordination, including, but not limited to, those provisions, if any, contained in the Lease, which provide for the subordination of the Lease and the leasehold interest of Tenant thereunder to a deed or deeds of trust or to a mortgage or mortgages to be thereafter executed, and shall not be modified or amended and no Provision herein shall be waived except in writing signed by the party against whom enforcement of any such modification or amendment is sought.

The use of the neuter gender in this Agreement shall be deemed to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect or in any circumstances, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement shall be governed by and construed in accordance with the law of the State of Illinois.

IN WITNESS WHEREOF the parties hereto have placed their hands and seals the day and year first above written.

Signed, sealed and delivered
in the presence of:

Witness:



TENANT:

FRESH FIELDS MARKETS, INC.

By: 

Name:

Title:

Hereunto Duly Authorized

(Corporate Seal)

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Signed, sealed and delivered
in the presence of:

Witness:

[Signature]

Trustee

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all of the warranties, indemnities, representations, covenants, conditions and agreements herein made on the part of the Trustee are and shall be by it solely and not by or for the Trustor and its successors. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustor on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

Signed, sealed and delivered
in the presence of:

Witness:

[Signature]

Witness

[Signature]

Secretary

LANDLORD:

**AMERICAN NATIONAL BANK & TRUST
COMPANY OF CHICAGO, as Trustee
under Trust No. 116762-02**

By:

[Signature]

Name: P. JOHANSEN
Title: *2nd VP*
Hereunto Duly Authorized

(SEAL)

LENDER:

**MUTUAL OF AMERICA LIFE INSURANCE
COMPANY**

By:

[Signature]

Name: Dolores J. Morrinney
Title: President and CEO
Hereunto Duly Authorized
Mutual of America Capital Management Corp.
(SEAL)

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STATE OF MARYLAND)
COUNTY OF MONTGOMERY) SS

I, MAURICE KREINDLER, a Notary Public in and for said County, in the State aforesaid, do hereby certify that MARK ORDAN, SECRETARY, President, and JACK MURPHY, SECRETARY of Fresh Fields Markets, Inc., personally known to me to be the same persons whose name are subscribed to the foregoing instrument as such President and SECRETARY, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth and the said JACK MURPHY then and there acknowledged that he, as custodian of the corporate seal of the corporation, did affix the corporate seal of said corporation to 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 notarial seal this 30th day of SEPTEMBER, 1996.



Notary Public

My commission expires:

MAURICE KREINDLER
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 11, 1998

CLERK OF COOK COUNTY Clerk's Office

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STATE OF
COUNTY OF

SS

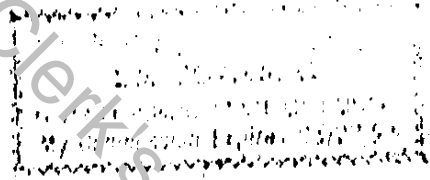
I, L. M. SOVIENSKI, a Notary Public in and for said County, Ill., the State aforesaid, do hereby certify that Gregory S. Kasprzyk

ASSISTANT SECRETARY of American National Bank & Trust Company of Chicago, as Trustee under Trust No. 116762-02, personally known to me to be the same persons whose name are subscribed to the foregoing instrument as such ASSISTANT SECRETARY and ASSISTANT SECRETARY appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth and the said ASSISTANT SECRETARY then and there acknowledged that he, as custodian of the corporate seal of the corporation, did affix the corporate seal of said corporation to 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 notarial seal this 007 13 1994 day of _____, 1994.

L. M. Sovieniski
Notary Public

My commission expires:



Cook County Clerk's Office

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STATE OF New YORK)
COUNTY OF New YORK.) SS

I, Susan Genicevitch, a Notary Public in and for said County, in the State aforesaid, do hereby certify that ROBERT J. MORRISSEY, ROBERT, SECRETARY, SECRETARY and Stephanie of Mutual of American Capital Management Corporation, personally known to me to be the same persons whose name are subscribed to the foregoing instrument as such SECRETARY and SECRETARY, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth and the said SECRETARY then and there acknowledged that she, as custodian of the corporate seal of the corporation, did affix the corporate seal of said corporation to 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 notarial seal this 21st day of October, 1994.

Susan Genicevitch
Notary Public

My commission expires:

March 23, 1996

SUSAN GENICEVITCH
Notary Public, State of New York
No. 41-4093620
Qualified in Orange County
Commission Expires March 23, 1996

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EXHIBIT A

LEGAL DESCRIPTION

ALL OF LOTS 1 AND 5, TOGETHER WITH A PART OF EACH OF LOTS 2, 3 AND 6 IN THE RESUBDIVISION OF LOTS 1 AND 2 OF OWNERS SUBDIVISION OF LOT 12 (EXCEPT THE EAST 73 FEET THEREOF) IN ASSESSOR'S SUBDIVISION OF THAT PART OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF ELSTON AVENUE (66.00 FEET WIDE) WITH THE SOUTHEASTERLY LINE OF LEAVITT STREET (66.00 FEET WIDE) AND RUNNING

THENCE SOUTHWESTWARDLY ALONG SAID SOUTHEASTERLY LINE OF LEAVITT STREET, SAID SOUTHEASTERLY LINE BEING ALSO THE NORTHWESTERLY LINE OF SAID LOTS 1 AND 2, A DISTANCE OF 401.45 FEET TO A POINT WHICH IS 10.00 FEET SOUTHWESTERLY FROM THE NORTHEASTERLY CORNER OF SAID LOT 2;

THENCE SOUTHEASTWARDLY ALONG A LINE WHICH IS 10.00 FEET SOUTHWESTERLY FROM AND PARALLEL WITH THE NORTHEASTERLY LINE OF SAID LOT 2, A DISTANCE OF 314.93 FEET, TO A POINT OF CURVE IN SAID PARALLEL LINE;

THENCE CONTINUING SOUTHEASTWARDLY ALONG A SOUTHEASTWARDLY EXTENSION OF LAST DESCRIBED PARALLEL LINE, A DISTANCE OF 117.07 FEET TO A POINT 432.00 FEET SOUTHEASTERLY FROM SAID SOUTHEASTERLY LINE OF LEAVITT STREET;

THENCE NORTHEASTWARDLY ALONG A LINE WHICH IS PARALLEL WITH SAID SOUTHEASTERLY LINE OF LEAVITT STREET, A DISTANCE OF 400.95 FEET TO AN INTERSECTION WITH SAID SOUTHWESTERLY LINE OF ELSTON AVENUE, AND

THENCE NORTHWESTWARDLY ALONG SAID SOUTHWESTERLY LINE OF ELSTON AVENUE, A DISTANCE OF 432.01 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

CONTAINING 173,302 SQUARE FEET (3.9785 ACRES) OF LAND, MORE OR LESS.

PERMANENT INDEX NUMBERS: 14-30-319-026
14-30-319-028

94908042

This Document Prepared By and After Recording Return to:

Jaime Skurnick, Esq.
Katten Muchin & Zavis
525 West Monroe
Suite 1600
Chicago, IL 60661

