

SUBORDINATION NON-DISTURBANCE AND ATTORNMENT AGREEMENT

(U. Record 75000004 75686512)

This Agreement is made and entered into this 25th day of October, 1995, by and between ACTIVE GRAPHICS, INC. (hereinafter referred to as "Tenant"), ITASCA BANK & TRUST CO. (the "Trustee"), not personally, but solely as Trustee under Trust Agreement dated August 25, 1987, and known as Trust No. 10502 (the "Trust"), and GEORGE E. HAYES, JR., individually and holder of fifty percent (50%) of the beneficial interest in and sole power of direction to the Trust ("Hayes") (the Trustee and Hayes collectively referred to herein as the "Landlord"), and NBD BANK, an Illinois state banking corporation ("Mortgagee").

41.00

WITNESSETH

DEPT-01 RECORDING \$41.00  
7:0012 TRAN 7596 11/13/95 13:13:00  
#4774 # CG \*-95-782241  
COOK COUNTY RECORDER

WHEREAS, Tenant entered into that certain lease described in Exhibit B hereto with Landlord whereby Tenant leases the premises described in said lease, which are hereinafter referred to as the "leased premises" and constitute a portion of the Real Estate legally described in Exhibit A attached hereto and made a part hereof (the "Real Estate"); said lease together with any amendments, assignments or modifications thereof, whether now or hereafter existing, shall be hereinafter referred to as the "Lease"; and

WHEREAS, there has been executed and delivered by Landlord to Mortgagee, a Mortgage and Assignment of Rents agreement (collectively the "Mortgage") encumbering the Real Estate;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

1. Attached hereto as Exhibit B is a true, correct and complete copy of the Lease (including all amendments or modifications thereof). Tenant acknowledges and agrees that (i) the Lease is in full force and effect and there is no existing default thereunder, and (ii) no rents have been prepaid or security deposits given except as provided for in the Lease and Tenant does not now have or hold any claim against the Landlord which might be set off or credited against future accruing rents.

2. The Lease is and shall be subject and subordinate to the Mortgage insofar as it affects the Real Estate, and to all renewals, modifications, consolidations, replacements, and extensions thereof, with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease, to the full extent of the principal sum secured thereby and interest accrued and from time to time unpaid thereon.

95792241

BOX 333-CTI

UNOFFICIAL COPY

Property of Cook County Clerk's Office

3. Tenant agrees that upon receipt of written notice from Mortgagee of an uncured default by Landlord under the Mortgage or the note or notes secured by the Mortgage, all checks for all or any part of rentals and other sums payable by Tenant under the Lease shall be delivered to and drawn to the exclusive order of Mortgagee until Mortgagee or a court of competent jurisdiction directs otherwise.

4. In the event it should become necessary to foreclose the Mortgage, the Mortgagee thereunder will not join the Tenant as a party defendant in any foreclosure proceeding so long as the Tenant is not in default under any of the terms, covenants or conditions of the Lease, or any of its obligations to the Mortgagee separate and apart from the Lease.

5. In the event that the Mortgagee or its designee shall succeed to the interest of the Landlord under the Lease, the Mortgagee agrees to be bound (or to cause its designee to be bound) to the Tenant under all of the terms, covenants and conditions of the Lease, and the Tenant agrees from and after such event, to attorn to the Mortgagee, its designee or the purchaser at any foreclosure sale of any portion or all of the Real Estate of which the leased premises constitutes a part, all rights and obligations under the Lease to continue as though the interest of Landlord has not terminated or such foreclosure proceeding had not been brought, and the Tenant shall have the same remedies against the Mortgagee, designee or purchaser for the breach of any agreement contained in the Lease that the Tenant might have under said documents against the Landlord; provided, however, that the Mortgagee, designee or purchaser shall not be:

- (a) liable for any act or omission of any prior landlord (including the Landlord);
- (b) subject to any offsets or defenses which the Tenant might have against any prior Landlord (including the Landlord);
- (c) bound by any rent or additional rent which the Tenant might have paid for more than the current month to any prior landlord (including the Landlord); or
- (d) bound by any amendment or modification of the Lease made without the consent of Mortgagee subsequent to the date hereof.

6. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

7. No modification, amendment, waiver or release of any provision of this Agreement or any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.

8. All notices, demands and requests given or required to be given hereunder shall be in writing. All such notices, demands and requests by Mortgagee to Tenant shall be deemed to have been properly given if served in person or if sent by United States registered or certified mail, postage prepaid, addressed to Tenant at:

Active Graphics, Inc.  
1532 West Fulton Street  
Chicago, IL 60607

or to such other address as Tenant may from time to time designate by written notice to Mortgagee given as herein required. All notices, demands and requests by Tenant to Mortgagee shall be deemed to have been properly given if served in person or if sent by United States registered or certified mail, postage prepaid, addressed to Mortgagee at:

NBD Bank  
100 South Wheaton Avenue  
Wheaton, Illinois 60187

or to such other address as Mortgagee may from time to time designate by written notice to Tenant given as herein required. Notice, demands and requests given by mail in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder when personally delivered or two (2) days after the time such notice, demand or requests shall be deposited in the mails.

9. This Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that upon the assignment of the interest of the original or any successor Mortgagee hereunder, all obligations and liabilities of such Mortgagee under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party or parties to whom such Mortgagee's interest is so assigned; and provided further, that the interest of Tenant under this Agreement may not be transferred or assigned, by operation of law or otherwise, without Mortgagee's, or its successors' or assigns' prior written consent.

10. This Agreement is executed by Itasca Bank & Trust Co., 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 (and said Trustee in its personal and individual

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

capacity hereby warrants that it as Trustee possesses full power and authority to execute this instrument), and it is expressly understood and agreed by the parties hereto and by every person now or hereafter claiming any right or security hereunder that nothing contained herein shall be construed as creating any liability on said Trustee in its individual capacity personally to perform any covenant, either expressed or implied herein contained, all such liability, if any, being expressly waived, but this waiver shall in no way affect the personal liability of any other party under this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Property of Cook County Clerk's Office

95782241

UNOFFICIAL COPY

Property of Cook County Clerk's Office



UNOFFICIAL COPY

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

TENANT:

ACTIVE GRAPHICS, INC.,  
an Illinois corporation

By: George E. Hayes, Jr.  
Its: President

Attest:

\_\_\_\_\_

TRUSTEE:

ITASCA BANK & TRUST CO.,  
not personally, but solely as Trustee under Trust Agreement dated August 25, 1987, and known as Trust No. 10502

By: Barbara Love  
Its: Barbara Love, Sr. Trust Officer

Attest:

Carol Niketopolous  
Carol Niketopolous  
Assistant Secretary  
MORTGAGEE:

NBD BANK,  
an Illinois state banking corporation

By: Januel R. Stenke  
Its: Ass't Vice President

Attest:

\_\_\_\_\_

HAYES:

George E. Hayes, Jr.  
GEORGE E. HAYES, JR.,  
individually

a Active/subordination

This instrument is executed by ITASCA BANK & TRUST CO. not personally but solely as Trustee, an aforesaid. All the covenants and conditions to be performed hereunder by said bank are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be occasioned or be enforceable against said bank by reason of any of the covenants, statements, representations, guarantees, warranties or indemnifications contained in this contract

95792241

UNOFFICIAL COPY

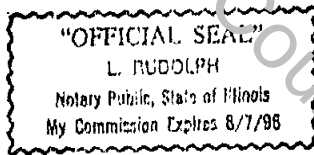
Property of Cook County Clerk's Office

TENANT ACKNOWLEDGEMENT

STATE OF ILLINOIS )
) SS.
COUNTY OF COOK )

I, [Signature], a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT George Hayes, personally known to me to be the Pres of Active Graphics, Inc, and [Signature] personally known to me to be the [Signature] of said corporation, and who are personally known to be the same persons whose names are subscribed to the foregoing instrument as such [Signature] and [Signature], respectively, appeared before me this day in person and severally acknowledge that as such [Signature] and [Signature], they signed and delivered the said instrument as [Signature] and [Signature] of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their 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 2 day of November 1995.



[Signature]
Notary Public

My commission expires: \_\_\_\_\_

Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office



UNOFFICIAL COPY

Property of Cook County Clerk's Office



UNOFFICIAL COPY

Property of Cook County Clerk's Office



HAYES ACKNOWLEDGEMENT

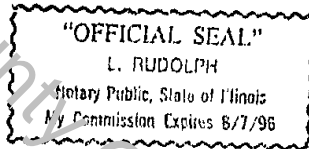
STATE OF ILLINOIS    )  
                                  ) SS.  
COUNTY OF COOK    )

I, L. Rudolph, a Notary Public in and for said County in the State aforesaid,  
DO HEREBY CERTIFY THAT George Hayes, personally known to be the same  
person whose name is subscribed to the foregoing instrument appeared before me this day  
in person and acknowledged that he has signed and delivered said instrument as his free  
and voluntary act, for the uses and purposes set forth therein.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 2 day of  
November 1995

[Signature]  
\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



Notary Public, State of Illinois  
Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT A

Legal Description

PARCEL 1

THE EAST 9.28 FEET OF LOT 2 AND LOTS 3 AND 4 IN SUBDIVISION OF THE EAST 75 FEET OF THE SOUTHWEST 1/4 OF BLOCK 15 IN UNION PARK SECOND ADDITION TO CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2

LOTS 1 TO 7 BOTH INCLUSIVE IN COUNTY CLERKS DIVISION OF THE SOUTH 1/2 OF BLOCK 15 IN UNION PARK SECOND ADDITION IN THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

- PIN: 17-08-308-028-0000  
17-08-308-029-0000  
17-08-308-030-0000  
17-08-308-031-0000  
17-08-308-032-0000  
17-08-308-033-0000  
17-08-308-034-0000  
17-08-308-038-0000

reply:  
mail to  
William Kraft  
Kee, Mahon & Cate  
1515 E. Woodfield Rd #250  
Schaumburg IL 60173

95792241

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

Lease

Property of Cook County Clerk's Office

95582241

UNOFFICIAL COPY

Property of Cook County Clerk's Office