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 #6384 # JB *-95-216570
 COOK COUNTY RECORDER

SUBORDINATION, NON-DISTURBANCE AND ATTORNEY AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNEY AGREEMENT (this "Agreement") is made and entered into this 28th day of February, 1995, by and among O'Grady, Inc. ("Tenant"), with a mailing address of 150 E. Huron, Suite 1200, Chicago, IL 60611, AMERICAN NATIONAL BANK AND TRUST COMPANY, not personally, but solely as Trustee under Trust Agreement dated March 23, 1994, and known as Trust No. 118105-04 ("Landlord") with a mailing address of 33 N. LaSalle Street, Chicago, IL 60690, and ORIX USA Corporation, a Delaware corporation ("Mortgagee"), with a mailing address of 100 North Riverside Plaza, Suite 1400, Chicago, Illinois 60606.

3900

W I T N E S S E T H:

WHEREAS, Tenant has entered into a lease dated September 5, 1991 and amended November 14, 1991, June 20, 1992 and July 29, 1994 with Landlord, which demises certain premises described in said lease (the "Premises") which 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 or modifications thereof, whether now or hereafter existing shall be hereinafter referred to as the "Lease"; and

WHEREAS, Landlord has executed and delivered to Mortgagee a certain Mortgage, Security Agreement, and Fixture Filing (the "Mortgage") encumbering the Real Estate to secure an indebtedness of Twelve Million Dollars (\$12,000,000); and

WHEREAS, Mortgagee, as a condition to making the loan secured by said Mortgage to Landlord, has required the execution of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and in consideration of Ten Dollars (\$10.00) by each of the parties hereto paid to the other, receipt of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

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1. Tenant has delivered or identified in writing to Mortgagee concurrently herewith a true, correct and complete copy of the Lease. Landlord and Tenant each agree not to amend, modify or accept a termination of the Lease (except for a termination by Tenant pursuant to its rights under the Lease and this Agreement) without the prior written consent of the Mortgagee and that no such amendment, modification or termination will be effective as against Mortgagee or its successors or assigns without such consent.

2. The Lease is and shall be subject and subordinate to the Mortgage and to all renewals, modifications, consolidations, replacements, and extensions therefor, to the full extent of the principal sum secured by the Mortgage, all interest accrued and from time to time unpaid thereon and any other amounts required to be paid by the terms of the Mortgage and the instruments secured thereby. Tenant will in no event subordinate or agree to subordinate the Lease to any lien or encumbrance affecting the Real Estate or the Premises other than the Mortgage without the express written consent of Mortgagee, and any such attempted subordination or agreement to subordinate without such consent of Mortgagee shall be void and of no force and effect. Tenant shall provide Mortgagee with written notice of any defaults of Landlord under the Lease, which notices shall be sent in accordance with the provisions of Section 1 of this Agreement. Tenant shall not be entitled to terminate the Lease or to terminate or avoid any covenant to operate its business which may be contained in the Lease, by reason of any default of Landlord under the Lease, unless (i) Tenant shall have given Mortgagee written notice of such default as aforesaid, and (ii) Mortgagee shall have failed to cure such default of Landlord within the times set forth below. Mortgagee shall have thirty (30) days following receipt of any such notice in which to cure such default; provided, that if it is reasonably necessary or prudent for Mortgagee to obtain possession of the Real Estate, obtain an order or approval of a court, or otherwise exercise Mortgagee's remedies against the Landlord in order to effect the cure of such default by Landlord under the Lease, and if Mortgagee shall commence and shall thereafter diligently pursue such remedies against the Landlord, Mortgagee shall have such additional time as is reasonably necessary to exercise such remedies, plus a period of thirty (30) days after the completion thereof, in which to effect such cure but in no event more than 180 days and then only if the Landlord's default does not materially interfere with Tenant's business. In addition, neither Mortgagee nor any Transferee shall be required, in order to cure any default by Landlord as described herein, to pay any claims for indemnification or for damages (other than payment of specified amounts expressly required to be paid by Landlord under the Lease) arising out of any default by Lessor, but the foregoing shall not limit Lessee's rights to pursue the Landlord named herein for such claims.

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3. Tenant agrees that neither the occurrence of any default in the Mortgage, the institution of proceedings to foreclose the lien thereof, the taking of possession by Mortgagee or by any receiver appointed in any foreclosure proceedings, the entry of a foreclosure decree, the sale of the Real Estate pursuant to such decree, the issuance of a deed to the purchaser at any such sale nor the issuance of a deed of the Real Estate in lieu of foreclosure or in settlement of amount due under the Mortgage will affect any obligation of Tenant under said Lease. Tenant understands that Landlord has executed and delivered to Mortgagee an assignment of the Landlord's interests in the leases of the Real Estate, including the Lease. Under the terms of such assignment, Landlord has agreed that Tenant is entitled to rely on any notices or demands from Mortgagee to make payments to Mortgagee, without any liability or any duty of inquiry on the part of the Tenant regarding whether Landlord is in default under the Mortgage. Accordingly, Tenant further agrees that upon receipt of written notice from Mortgagee of any uncured default by Landlord under the Mortgage or the Note secured by the Mortgage, all checks and payments for all or any part of the 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 shall otherwise direct.

4. In the event Mortgagee should foreclose the Mortgage, Mortgagee will not join Tenant as a party defendant in any foreclosure proceedings, unless Tenant is deemed to be a necessary party, for so long as Tenant is not in default under the Lease or this Agreement. In the event Tenant defaults under the Lease or this Agreement, the obligations of Mortgagee hereunder shall, at Mortgagee's election, become null and void, and Mortgagee may proceed to extinguish the Lease and all of Tenant's rights and interests in and to the Premises through foreclosure of the Mortgage.

5. Tenant hereby agrees that any interest of Tenant in any insurance, condemnation or eminent domain proceeds or awards made with respect to the Real Estate, the Premises or any interest in either of them shall be subordinate to the interests of Mortgagee in such proceeds or awards. Tenant will neither seek nor accept any insurance, condemnation or eminent domain proceeds or awards made with respect to the Real Estate, the Premises or any interest in either of them until all amounts secured by the Mortgage have been paid in full. However, Tenant reserves the right to make a separate claim for trade fixtures and moving expenses if separately allocated.

6. So long as Tenant shall not be in default under the Lease, (a) Mortgagee shall not disturb Tenant's possession of the Premises, and (b) in the event Mortgagee or any designee, successor, or purchaser of the Real Estate (or any portion

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thereof which shall include the Premises) through foreclosure, deed in lieu of foreclosure, power of sale, any sale or plan of reorganization in bankruptcy, or other enforcement process (herein called a "Transferee"), shall succeed to the interests of the Landlord under the Lease, (i) such occurrence shall be deemed to create direct privity of estate and contract between Tenant and such Mortgagee or Transferee (as the case may be), with the same force and effect as if the Lease had been made directly between Tenant and the Mortgagee or Transferee (as the case may be), subject only to the limitations contained in this Agreement, and (ii) Tenant shall make full and complete attornment to Mortgagee or such Transferee as the successor landlord under the Lease. In the event that Mortgagee or any Transferee shall, in accordance with the foregoing, succeed to the interest of Landlord under the Lease, Mortgagee and any such Transferee shall not be:

(a) liable for any act or omission of Landlord or any prior landlord;

(b) obligated or liable to Tenant for any security deposit or other (sum) deposited with any prior landlord (including Landlord) under the Lease and not physically delivered to Mortgagee;

(c) subject to any offsets, claims or defenses (except for offsets, claims or defenses Tenant was legally entitled to make during the period prior to Mortgagee or a Transferee taking possession of the Property or having a receiver appointed) which Tenant might have against any prior landlord (including Landlord);

(d) bound by any rent or additional rent which the Tenant might have paid for more than the current month to any prior landlord (including Landlord);

(e) bound by any amendment or modification of the Lease made without the consent of Mortgagee subsequent to the date hereof;

(f) obligated or liable to Tenant with respect to the construction or completion of the initial improvements to the Premises, or for any construction, moving, relocation, or refurbishment allowance for any improvements to the Premises or any part thereof;

(g) liable for the payment of any leasing commissions or other expenses which the Landlord or any prior landlord shall have failed to pay any third party;

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(h) bound or liable under any written or oral notice given by Tenant to Landlord or any prior landlord which has not also been given to Mortgagee;

(i) obligated or liable (financially or otherwise) on account of any representation, warranty, or indemnification obligation of Landlord with respect to hazardous materials, asbestos, or other environmental laws, claims or liabilities, whether expressly stated as such or subsumed within general obligations to comply with laws or preserve the benefits of Tenant's use and enjoyment of the Premises; or

(j) bound to Tenant after the date on which Lander or such transferee transfers its interest in the Property to any third party.

Nothing in this Section 6 shall be construed to limit Tenant's right to assert claims or obtain remedies against the Landlord having originally failed to pay or perform any of the foregoing obligations, if Tenant would otherwise be entitled to do so pursuant to the Lease and if such claims or remedies do not involve termination of this Lease (except in accordance with the provisions of this Agreement) or offsets against rent payable to, or the assertion of claims against, any Mortgagee or Transferee.

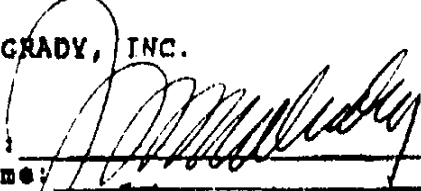
7. All notices required or permitted by this Agreement shall be given by (i) hand delivery, (ii) U.S. Registered or Certified Mail, return receipt requested, or (iii) nationally reputable overnight courier service, and shall be addressed to the recipient at the respective address specified in the opening paragraph of this Agreement. No notice shall be effective unless and until actually received.

8. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

TENANT:

O'GRADY, INC.

By: 
Name: _____
Title: Chairman

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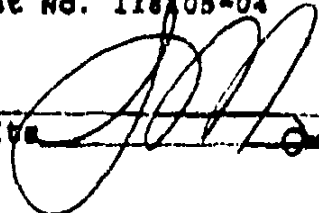
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TRUSTEE:

AMERICAN NATIONAL BANK AND TRUST COMPANY, not personally, but solely as Trustee under Trust Agreement dated March 23, 1994, and known as Trust No. 118105-04

By:



Its _____

LENDER:

ORIX USA Corporation,
a Delaware corporation,

By:



~~Executive President~~

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STATE OF ILLINOIS)
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COUNTY OF COOK)

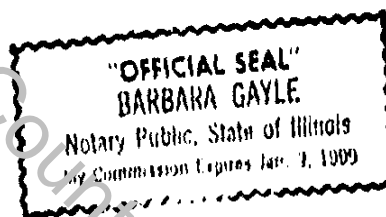
I, BARBARA GAYLE, a Notary Public in and for said County in the State aforesaid, do hereby certify that JOHN O'GRADY, President of O'Grady, Inc., personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary acts and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal on this 13th day of ~~FEBRUARY~~, 1995.
MARCH

Barbara Gayle
Notary Public

My Commission Expires:

1/3/99



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STATE OF ILLINOIS

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COUNTY OF COOK

I, RUTH ANNE BOOKER, a Notary Public in and for said County in the State aforesaid, do hereby certify that Gregory S. Kasprzyk, SECOND VICE PRESIDENT and _____ of said Association who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such SECOND VICE PRESIDENT and _____, respectively, 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 Association, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said _____ then and there acknowledged that he, she as custodian of the corporate seal of said Association, did affix the corporate seal of said Association to said instrument as his, her own free and voluntary act and as the free and voluntary act of said Association, as Trustee as aforesaid, for the uses and purposes therein set forth.

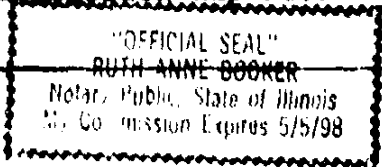
MAR 15 1995

GIVEN under my hand and notarial seal on this _____ day of February, 1995.

Ruth Anne Booker

 Notary Public

My Commission Expires:



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STATE OF Illinois }
COUNTY OF Cook } SS

I, BARBARA STANKO, a Notary Public in and for said County in the State aforesaid, do hereby certify that

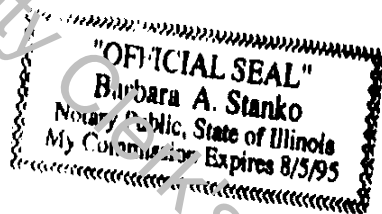
BARBARA STANKO, President of ORIX USA Corporation, a Delaware corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary acts and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

Authorized
Signature

GIVEN under my hand and notarial seal on this 14th day of February, 1995.
month

Barbara A. Stanko
Notary Public

My Commission Expires:



THIS DOCUMENT PREPARED BY AND UPON RECORDING RETURN TO:

Scott A. Lindquist
SONNENSCHN NATH & ROSENTHAL
8000 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606

ADDRESS OF THE PREMISES:

150 East Huron Street
Chicago, Illinois
P.I.N. 17-10-106-0007

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EXHIBIT A

LEGAL DESCRIPTION

THE SOUTHEAST 1/4 (EXCEPT THE WEST 1 1/2 FEET THEREOF) OF BLOCK 45 OF KINZIE'S ADDITION TO CHICAGO IN THE NORTH FRACTIONAL 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

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