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J. Fall

RECORDING REQUESTED BY:

The Prudential Insurance Company of America

AND WHEN RECORDED MAIL TO:

96935203

Mark F. Mehlman
Sonnenschein Nath & Rosenthal
8000 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6404

DEPT. OF RECORDING 143.50
TODAY: JAN 21 12:11/96 15:01:00
1996 RC 96-935203
COOK COUNTY RECORDER

PRUDENTIAL LOAN NO. _____

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

This Subordination, Attornment ^{Balance} and Non-Disturbance Agreement (the "Agreement") is made and entered into as of the 23 day of November, 1996, by and among American National Can Company, a ~~New Jersey~~ corporation ("Tenant"), 2000 Pratt, L.L.C., an Illinois limited liability company (hereafter referred to as either "Landlord", or "Borrower"), and The Prudential Insurance Company of America, a New Jersey corporation (together with its successors and assigns hereinafter referred to as "Lender").

WHEREAS, Lender is making a loan (the "Loan") to Borrower which loan will be evidenced by a note (the "Note") secured by a mortgage (the "Mortgage"), dated ~~November~~ December 2, 1996, and recorded in the real estate records of Cook County, Illinois, constituting a first lien upon the land described in Exhibit "A" attached hereto and made a part hereof and the improvements thereon, as well as all of Landlord's right, title interest, estate and claim now owned or hereafter acquired in, to or relating to the items described in (i) through (xii) in the recitals of the Mortgage (collectively, the "Property"); and

WHEREAS, Landlord and Tenant have entered into a certain lease dated November 5, 1996, which lease provides for the direct payment of rents from Tenant to Landlord for the use and occupancy of 60,443 square feet of that building located on the Property at 2000 Pratt Boulevard, Elk Grove Village, Illinois, (the "Premises") by Tenant, as more fully set forth in the lease (hereafter, the lease and all present and future amendments and modifications thereto, and extensions thereof, shall be referred to as the "Lease"); and

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WHEREAS, Lender wishes to obtain from Tenant certain assurances that Tenant will attorn to the purchaser at a foreclosure sale in the event of a foreclosure or to the holder of the Note and Mortgage in the event of such holder's exercise of its rights under the Note and Mortgage; and

WHEREAS, Tenant wishes to obtain from Lender certain assurances that so long as Tenant is not in default of Tenant's obligations to Landlord under the Lease, that Tenant shall not be disturbed in its peaceful possession of the Premises as a result of actions taken by Lender pursuant to its rights under the Mortgage; and

WHEREAS, Tenant and Lender are both willing to provide such assurances to each other upon and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the above, the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

1. Subordination and Attornment. The Lease and all of the rights of Tenant thereunder shall be and are hereby declared to be and at all times hereafter shall be and remain subject and subordinate in all respects to the Mortgage and to all renewals, modifications, consolidations, replacements and extensions thereof and all of the rights of the Lender thereunder and all other documents securing the Note. Notwithstanding such subordination, Tenant hereby agrees that the Lease shall not terminate in the event of a foreclosure of the Mortgage, whether judicial or nonjudicial or any other proceedings brought to enforce the Mortgage or by deed in lieu of foreclosure and Tenant further agrees to attorn to and to recognize Lender (as mortgagee in possession or otherwise), or the purchaser at such foreclosure sale, as Tenant's landlord for the balance of the term of the Lease, in accordance with the terms and provisions thereof, but subject, nevertheless, to the provisions of this Agreement, which Agreement shall be controlling in the event of any conflict.

2. Estoppel. Landlord and Tenant hereby agree that the Lease is valid, enforceable and in full force and effect, that to Tenant's knowledge as of the date hereof there are no defaults by Landlord or Tenant, that to Tenant's knowledge there are no set offs or counterclaims by Tenant to the payment of rent due under the Lease, that all conditions to the effectiveness or continuing effectiveness of the Lease required to be satisfied as of the date hereof have been satisfied, that the Lease has not been modified or amended except as set forth below (if no modifications or amendments, state "none"):

None

and that the Lease is a complete statement of the agreement of Tenant and Landlord with respect to the Premises.

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3. Tenant's Representations and Warranties. Tenant hereby represents and warrants to Lender that it has not subordinated the Lease or any of its rights thereunder to any lien or mortgage other than the Mortgage and that it will not subordinate the Lease or its rights thereunder to any lien or mortgage without the prior written consent of Lender.

4. Lender's Notice and Cure Rights. Tenant agrees with Lender that, from and after the date hereof until payment in full of the indebtedness under the Note, Tenant will not terminate the Lease nor discontinue or abate the rent as a result of a default by Landlord under the Lease, without first giving the Lender notice and an opportunity, at Lender's option, to cure such default, provided such default is capable of being cured by Lender. In the event such default by Landlord under the Lease is not susceptible to cure by the Lender, Tenant may, at its option, exercise all its rights under the Lease (including, without limitation, the right to terminate the Lease or discontinue or abate rent). Notwithstanding the foregoing, the Tenant shall not terminate the Lease nor discontinue or abate rent as a result of a default by Landlord under the Lease if (a) the Lender is diligently in the process of foreclosing on the Property and (b) the continuation of such default by Landlord under the Lease during the time period required for foreclosure does not (i) unreasonably interfere with the Tenant's use and enjoyment of the Premises under the terms of the Lease nor (ii) impose any additional obligations on the Tenant not contained in the Lease. Tenant also agrees that, at the written request of Lender the rent payments due under the Lease shall be paid directly to Lender and any such payments to the Lender shall be credited against the rent due under the Lease as if made to the Landlord. Tenant agrees that prior to exercising any of its rights and remedies under the Lease in the event of any default by Landlord thereunder, including any rights of offset, defense or self help provisions contained in the Lease, Tenant shall give written notice to Lender of the occurrence of default by Landlord and Landlord's failure to cure such default pursuant to the terms of the Lease, specifying, with reasonable clarity, the events constituting such default, and shall give Lender thirty (30) calendar days after the date of receipt of such notice to undertake to cure such default, provided however, such thirty (30) day period shall be extended provided that Lender is proceeding diligently to cure such default.

5. Non-Disturbance. So long as Tenant is not in default under the Lease beyond any notice and cure period provided in the Lease, then Lender agrees with Tenant that in the event the interest of Landlord is acquired by Lender, or Lender acquires title to the Property or comes into possession of said Property by reason of foreclosure or enforcement of the Mortgage or the Note, or by a conveyance in lieu thereof, or by any other means, Tenant's possession of the Premises and Tenant's rights, privileges and obligations under the Lease shall not be disturbed, diminished or interfered with by Lender or any party claiming through Lender during the term of the Lease, including any extensions thereof permitted to Tenant, and the Lease shall continue in full force and effect and shall not be terminated except in accordance with the terms of the Lease. In the event Tenant defaults under the Lease or this Agreement beyond any applicable notice and cure period, the obligations of Lender hereunder shall, at Lender's election, become null and void and Lender may proceed to extinguish the Lease and all of Tenant's rights and interests in and to the Premises through foreclosure of the Mortgage.

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Immediately upon the acquisition by Lender of possession or title to the Property by reason of foreclosure or enforcement of the Mortgage or the Note, or by a conveyance in lieu thereof, or as a result of any other means, Tenant agrees to be bound to Lender under all of the terms, covenants, and conditions of the Lease for the balance of the term thereof, including any extensions thereof permitted to Tenant, 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 other instruments on the part of either party hereto.

Lender further agrees that if it obtains possession or title to the Property during the Lease term, Lender shall be bound to Tenant under all of the terms, covenants, and conditions of the Lease and Tenant shall, from and after the occurrence of the events set forth above, have the same remedies that Tenant might have had under the Lease against Landlord; provided, however, that Lender shall not be:

- a. liable to Tenant for damages for any act or omissions of Landlord or any prior landlord occurring prior to Lender obtaining possession or title to the Property; or
- b. subject to any claims or defenses which Tenant might have against Landlord or against any prior landlord which arise prior to the date Lender obtains possession or title to the Property; provided, however, that this shall not diminish Lender's obligations to cure any defaults of Landlord which continue subsequent to the date Lender obtains possession or title to the Property; or
- c. bound by any rent or additional rent or deposit, rental security or any other sums which Tenant may have paid to Landlord or any other landlord; or
- d. bound by any amendment or modification of the Lease made without Lender's prior written consent, which consent shall not be unreasonably withheld or delayed; or
- e. bound to the Tenant subsequent to the date upon which the Lender transfers its interest in the Property to any third party, provided such third party assumes all obligations of Landlord under the Lease; or
- f. obligated or liable to Tenant with respect to the construction and completion of the initial improvements in the Premises for Tenant's use, enjoyment or occupancy; or

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g. obligated or liable to Tenant for any moving, relocation or refurbishment allowance or any payment or allowance for improvements to the Premises or any part thereof; or

h. liable for the payment of any leasing commissions or other expenses for which Landlord or any prior landlord incurred the obligation to pay; or

i. bound by or liable for any covenants or agreements of Landlord which are personal to Landlord and therefore, not capable of being performed by another party; or

j. bound by or liable for any covenants or agreements of Landlord or any prior landlord for payment for or performance of any future expansion or construction on the Property or the Premises.

6. Obligations of Succeeding Owner. Lender's liability shall at all times be limited to its interest in the Property.

7. Notices. All notices or other written communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged, (ii) one business day after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three business days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed as follows:

If to Borrower: 2000 Pratt, L.L.C.
180 N. Wacker Drive, Suite 500
Chicago, Illinois 60606-1604
Attention: E. Thomas Collins, Jr.
Telephone: 312/332-3555
Facsimile: 312/332-4122

with a copy to:

Much Shellist Freed Denenberg
Ament Bell & Rubenstein, P.C.
200 North LaSalle Street, Suite 2100
Chicago, Illinois 60601-1095
Attention: Morrie Much, Esq.
Telephone: 312/346-3100
Facsimile: 312/621-1750

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If to Tenant: American National Can Company
8770 West Bryn Mawr Avenue
Chicago, Illinois 60631-3642
Attention: Director - Real Estate
Telephone: 773/399-3000
Facsimile: 773/399-3115

with a copy to:

Jenner & Block
One IBM Plaza
Chicago, Illinois 60611
Attention: Donald I. Resnick, Esq.
Telephone: 312/222-9350
Facsimile: 312/527-0484

If to Lender: The Prudential Insurance Company of America
One Prudential Plaza, Suite 1300
130 E. Randolph Drive
Chicago, Illinois 60601
Attention: Mr. Richard Flohr
Telephone: 312/861-4838
Facsimile: 312/861-4744

with a copy to:

The Prudential Insurance Company of America
One Prudential Plaza, Suite 1300
130 E. Randolph Drive
Chicago, Illinois 60601
Attention: Kachen Kimmel, Esq.
Telephone: 312/861-4476
Facsimile: 312/861-4303

and:

Sonnenschein Nath & Rosenthal
8000 Sears Tower
Chicago, Illinois 60606
Attention: David A. Lapins, Esq.
Telephone: 312/876-8000
Facsimile: 312/876-7934

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or addressed as such party may from time to time designate in a writing to the other parties hereto and delivered in accordance with the provisions of this Section 7.

8. Miscellaneous. This Agreement may not be amended or modified in any manner other than by an agreement in writing, signed by the parties hereto or their respective successors in interest, and this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective 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 Property by any power of sale contained in the Mortgage, or by voluntary deed, assignment or other conveyance or transfer in lieu of foreclosure; and the word "Lender" shall include the Lender herein specifically named and any of its successors and assigns, including anyone who shall have succeeded to Landlord's interest in the Property or acquired possession thereof by, through or under foreclosure of the Mortgage, or by any other manner of enforcement of the Mortgage, or the Note or other obligation secured thereby.

9. Conflicts with Lease. This Agreement shall supersede, as between Tenant and Lender, all of the terms and provisions of the Lease which are inconsistent with this Agreement, but shall not affect any obligations or liabilities of Borrower, as landlord, under the Lease.

10. Automatic Amendment of Lease. If any proceedings are brought for the foreclosure of the Mortgage or if Lender shall succeed to the interest of Landlord under the Lease in any manner or way, Tenant agrees that the Lease at such time shall be automatically amended without the necessity of executing any other instrument or agreement as follows, notwithstanding any provision to the contrary contained in the Lease:

Lender shall not be liable or responsible nor shall Lender have any obligation under any provision of the Lease which may give rise to liabilities, duties, or responsibilities of Lender for any matters relating to construction, hazardous materials, the environment, or any property not then owned by Lender.

11. Proceeds of Casualty or Condemnation. The interest of Tenant under the Lease in and to any proceeds of insurance arising from any casualty to the Premises or the Property and all interest of Tenant in and to any award for the taking of the Property or the Premises under the power of eminent domain or any payment in lieu of such taking shall be subordinate to the interests of the Lender therein. Tenant shall not seek or accept any such proceeds or awards unless and until all amounts secured by the Mortgage are paid in full. If, after Lender succeeds to the interest of Landlord or takes possession or control of the Property by foreclosure, deed in lieu of foreclosure or otherwise, a casualty or condemnation shall occur to the Property or the Premises, Lender shall be obligated to repair, replace or reconstruction the Property and the Premises, if required by the Lease, but only to the extent of the net insurance or condemnation proceeds received by Lender by reason of such damage.

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12. Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of Illinois and any litigation arising out of this Agreement shall be brought in the courts of the State of Illinois or in the courts of the United States for the Northern District of the State of Illinois and all parties hereto consent to the venue of such courts.

13. Effect of Agreement. Landlord joins in the execution and delivery of this Agreement for the purpose of evidencing its consent to the terms and provisions hereof, and as between Landlord and Tenant, nothing herein contained shall be deemed to alter or modify the Lease. As between Lender and Landlord, nothing contained herein shall be deemed to alter or modify the terms and conditions of the Note, the Mortgage, or any other document or agreement regarding the mortgage loan made by Lender to Borrower.

14. Construction. All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Mortgage.

15. WAIVER OF TRIAL BY JURY: ALL PARTIES HERETO HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, THIS AGREEMENT, OR ANY ACTS OR OMISSIONS OF LENDER ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be properly executed and sealed by their duly authorized representatives as of the date first above written.

WITNESS:

TENANT:

AMERICAN NATIONAL CAN COMPANY, a
~~New Jersey~~ corporation
DELAWARE

By: Donald S. [Signature] (SEAL)

Title: _____

WITNESS:

LANDLORD:

2000 PRATT, L.L.C.

By: [Signature] (SEAL)

Title: SEARU [Signature]

ATTEST:

LENDER:

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA

By: [Signature] (SEAL)

Vice President

Assistant Secretary

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EXHIBIT A

LEGAL DESCRIPTION

Lot 6 (except the West 390 feet thereof) in Centex Industrial Park, being a Subdivision in Section 35, Township 41 North, Range 11 East of the Third Principal Meridian and Lot 8 in Centex Industrial Park Unit 2, being a Subdivision in Section 35 aforesaid, situated in the County of Cook in the State of Illinois.

Property Address: 2000-2060 Pratt Boulevard, Elk Grove Village, Illinois

PIN No.: 08-35-300-012

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08-35-300-013

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