

# UNOFFICIAL COPY

RECORDED REQUESTED BY, AND  
WHEN RECORDED RETURN TO:

**BLOCKBUSTER VIDEOS, INC. #17342**  
8320 South Madison Street  
Burr Ridge, Illinois 60521  
ATTN: Lease Administrator

DEPT-01 RECORDING \$25.50  
170084 TRAN 4878 02/26/96 10:40:00  
1907 MH \*-92-142465  
COOK COUNTY RECORDER  
DEPT-10 PENALTY \$25.00

96142465



## NON-DISTURBANCE AGREEMENT

THIS NON-DISTURBANCE AGREEMENT (the "Agreement") is made and entered into this the 20th day of September, 1995 by and between **BLOCKBUSTER VIDEOS, INC.** ("Tenant") and **PROTECTIVE LIFE INSURANCE COMPANY** ("Lender") and **NATIONAL SHOPPING PLAZAS, INC., AS LEASING AGENT FOR AMALGAMATED\* TRUST AGREEMENT DATED JUNE 10, 1993 AND KNOWN AS TRUST NO. 5590** ("Landlord").

\* BANK OF CHICAGO (FORMERLY KNOWN AS AMALGAMATED TRUST AND SAVINGS BANK), AS TRUSTEE UNDER A

### RECITALS:

**WHEREAS**, Landlord executed a Lease dated as of July 21, 1993, (the "Lease"), in favor of Tenant, a memorandum of which may be recorded simultaneously herewith, covering a certain Demised Premises therein described located on a parcel of real estate, a legal description of which is attached hereto and incorporated herein by this reference as Exhibit "A" (said parcel of real estate and the Demised Premises being sometimes collectively referred to herein as the ("Property")); and

**WHEREAS**, Lender is now or will become the owner and holder of a Mortgage and Security Agreement (the "Indenture"), which secures or will secure a Note in the original principal amount of \$1,300,000 in favor of the Lender as executed by Amalgamated Bank of Chicago as Trustee under Trust No. 5590 and Amalgamated Bank of Chicago as Trustee under Trust No. 5578 and which encumbers or will encumber the Property, together with the improvements thereon, payable upon the terms and conditions described therein; and

**WHEREAS**, it is a condition to said loan that said Mortgage shall unconditionally be and remain at all times a lien or charge upon the Property, prior and superior to this Lease and to the leasehold estate created thereby; and

**WHEREAS**, the parties hereto desire to assure Tenant's possession and control of the Property under this Lease upon the terms and conditions therein contained;

**NOW, THEREFORE**, for and in consideration of the mutual covenants and premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed by the parties hereto, the parties hereto do hereby agree as follows:

### AGREEMENT:

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1. The Lease is and shall be subject and subordinate to the Mortgage, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all future advances made thereunder.

2. Should Lender become the owner of the Property, or should the Property be sold by reason of foreclosure, or other proceedings brought to enforce the Mortgage which encumbers the Property, or should the Property be transferred by deed in lieu

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P. 25.00  
34.50

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of foreclosure, or should any portion of the Property be sold under a trustee's sale, this Lease shall continue in full force and effect as a direct lease between the then owner of the Property covered by the Mortgage and Tenant, upon, and subject to, all of the terms, covenants and conditions of this Lease for the balance of the term thereof remaining, including any extensions therein provided. Tenant does hereby agree to attorn to Lender or to any such owner as its landlord, and Lender hereby agrees that it will accept such attornment.

3. Notwithstanding any other provision of this Agreement, Lender shall not be (a) liable for any default of any landlord under the Lease (including Landlord), except that Lender agrees to cure any default of Landlord that is continuing as of the date Lender forecloses the Property within thirty (30) days from the date Tenant delivers written notice to Lender of such continuing default, unless such default is of such a nature to reasonably require more than thirty (30) days to cure and then Lender shall be permitted such additional time as is reasonably necessary to effect such cure, provided Lender diligently and continuously proceeds to cure such default; (b) subject to any offsets or defenses which have accrued prior to the date of foreclosure, unless Tenant shall have delivered to Lender written notice of the default which gave rise to such offset or defense and permitted Lender the same right to cure such default as permitted Landlord under the Lease; (c) bound by any Rent that Tenant may have paid under the Lease more than one month in advance; (d) bound by any amendment or modification of the lease hereafter made without Lender's prior written consent; (e) responsible for the return of any security deposit delivered to Landlord under the Lease and not subsequently received by Lender.

4. If Lender sends written notice to Tenant to direct its Rent payments under the Lease to Lender instead of Landlord, then Tenant agrees to follow the instructions set forth in such written instructions and deliver Rent payments to Lender; however, Landlord and Lender agree that Tenant shall be credited under the Lease for any Rent payments sent to Lender pursuant to such written notice.

5. All notices which may or are required to be sent under this Agreement shall be in writing and shall be sent by first-class certified U.S. mail, postage prepaid, return receipt requested, and sent to the party at the address appearing below or such other address as any party shall hereafter inform the other party by written notice given as set forth above:

Tenant: Blockbuster Videos, Inc. #17342  
One Blockbuster Plaza  
Fort Lauderdale, FL 33301  
Attention: Real Estate/Legal Dept.

with a copy to: Blockbuster Videos, Inc. #17342  
8320 South Madison Street  
Burr Ridge, Illinois 60521  
Attention: Real Estate/Legal Dept.

Landlord: National Shopping Plazas, et al  
c/o Thomas H. Page  
Barack, Ferrazzano, Kirschbaum & Perlman  
333 West Wacker Drive, Suite 2700  
Chicago, IL 60606

Lender: Protective Life Insurance Company  
2801 Highway 280 South  
Birmingham, Alabama 35223  
Attention: Investment Department

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All notices delivered as set forth above shall be deemed effective three (3) days from the date deposited in the U.S. mail.

6. Said Mortgage shall not cover or encumber and shall not be construed as subjecting in any manner to the lien thereof any of Tenant's improvements or trade fixtures, furniture, equipment or other personal property at any time placed or installed in the Premises. In the event the Property or any part thereof shall be taken for public purposes by condemnation or transfer in lieu thereof or the same are damaged or destroyed, the rights of the parties to any condemnation award or insurance proceeds shall be determined and controlled by the applicable provisions of this Lease.

7. This Non-Disturbance Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors in interest, heirs and assigns and any subsequent owner of the Property secured by the Mortgage.

8. Should any action or proceeding be commenced to enforce any of the provisions of this Non-Disturbance Agreement or in connection with its meaning, the prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorney's fees.

9. Tenant shall not be joined as a party/defendant in any action or proceeding which may be instituted or taken by reason or under any default by Lardlord in the performance of the terms, covenants, conditions and agreements set forth in the Mortgage.

IN WITNESS WHEREOF, the parties hereto have caused this Non-Disturbance Agreement to be executed as of the day and year first above written.

ATTEST:

LENDER:

Protective Life Insurance Company

By: Richard C. Fruechtenicht

Richard C. Fruechtenicht  
Assistant Secretary

(CORPORATE SEAL)

By: A. S. Williams, III

Name: A. S. Williams, III  
Title: Treasurer

TENANT:

Blockbuster Videos, Inc.  
a Texas corporation

By: Gerald R. Geddis

Name: Gerald R. Geddis  
Title: President

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## LANDLORD'S CONSENT

Landlord entered into this Agreement for the purpose of acknowledging the signing and delivery thereof by the above parties and for the purpose of agreeing to the matters hereinabove stated which affect Landlord's interest in the Lease and the Leased Premises.

LANDLORD:

AS TRUSTEE OF NATIONAL SHOPPING PLAZAS, INC., AS LEASING AGENT FOR AMALGAMATED BANK OF CHICAGO TRUST AGREEMENT DATED JUNE 10, 1993 AND KNOWN AS TRUST NO. 5590

By: [Signature]  
Name: George D. Harus  
Title: President

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[Acknowledgement of Lender]

STATE OF ALABAMA  
COUNTY OF JEFFERSON

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of October, 1995 by A. S. Williams, III, and Richard C. Fruechtenicht, as Treasurer and Assistant Secretary, respectively of PROTECTIVE LIFE INSURANCE COMPANY, a Tennessee corporation, on behalf of the corporation. They are personally known to me or has produced \_\_\_\_\_ as identification and ~~did~~ did not take an oath.

Rebecca T. Carter  
Signature of Notary  
Rebecca T. Carter  
(Name of Notary Typed, Printed or Stamped)

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NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: July 22, 1997.  
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

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[Acknowledgement By Tenant]

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 20th day of September, 1995 by Gerald R. Geddis, President of BLOCKBUSTER VIDEOS, INC., a Texas corporation, on behalf of the corporation. He is personally known to me and did not take an oath.

*[Handwritten Signature]*

Signature of Notary

(Name of Notary Typed, Printed or Stamped)

Property of Cook

[Acknowledgement of Landlord]

STATE OF Illinois

COUNTY OF Cook

The foregoing instrument was acknowledged before me this 27th day of September, 1995 by Greg D. Hand, President of NATIONAL SHOPPING PLAZAS, INC., AS

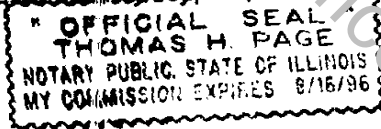
LEASING AGENT FOR AMALGAMATED TRUST AGREEMENT DATED JUNE 10, 1993 AND KNOWN AS TRUST NO. 5590. He/She is personally known to me or has produced as identification and did/did not take an oath.

Bank of Chicago as trustee under a

*[Handwritten Signature]*

Signature of Notary

(Name of Notary Typed, Printed or Stamped)



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EXHIBIT "A"

## Legal Description of Demised Premises

LOT 1 IN G & H CONSOLIDATION [REDACTED] IN THE NORTHEAST  
QUARTER OF SECTION 32 TOWNSHIP 35 RANGE 14 EAST OF THE THIRD  
PRINCIPAL MERIDIAN, RECORDED JULY 24, 1993 AS DOCUMENT NUMBER  
93570547, IN COOK COUNTY, ILLINOIS.

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