

UNOFFICIAL COPY

PREPARED BY & RETURN TO:
MICHAEL I. FREEMAN, P. C.
2 North LaSalle Street - Suite 800
Chicago, Illinois 60602
312/346-5692

97649273



. DEPT-01 RECORDING \$35.50
. T06666 TRAN 3004 09/04/97 13:32:00
. #2695 + VF *-97-649273
. COOK COUNTY RECORDER

This space reserved for Recorder's use only.

6/5/97

2603Y7XX.PER

NON-DISTURBANCE, ATTORNTMENT AND SUBORDINATION AGREEMENT

THIS AGREEMENT made this 5th, day of June, 1997 by, between and among DESIGN AGENCY, INC., an Illinois corporation ("Tenant"), AMERICAN NATIONAL BANK AND TRUST COMPANY, not personally, but as Trustee under Trust Agreement dated September 29, 1996, and known as Trust No. 122177-09 ("Landlord") and ALBANY BANK & TRUST COMPANY, N.A., a national banking association ("Mortgagee").

WITNESSETH:

WHEREAS, Landlord is the owner and holder of fee simple title in and to certain real property (the "Premises") situated in Cook County, Illinois, legally described in EXHIBIT A attached hereto and by this reference made a part thereof; and

WHEREAS, AMALGAMATED BANK OF CHICAGO, not personally, but as Trustee under Trust Agreement dated February 28, 1987, and known as Trust No. 5243, as Lessor, and Tenant, as Lessee, have entered into an Industrial Building Lease ("Lease") dated February 16, 1989, which Lease was amended by a First Amendment to Lease dated March 1, 1993 (the "First Amendment") demising the premises (the "Leased Premises"); and

WHEREAS, Landlord has succeeded to the interest of AMALGAMATED BANK OF CHICAGO, not personally, but as Trustee under Trust Agreement dated February 28, 1987, and known as Trust No. 5243; and

WHEREAS, Landlord has made, executed and delivered to Mortgagee one certain Promissory Note (the "Note") dated June 10, 1997 in the principal amount of

97649273

(8)

35.50
AM

97060088 W B 3

UNOFFICIAL COPY

75011471

Property of Cook County Clerk's Office

97649273

UNOFFICIAL COPY

\$ 1,000,000.00 secured by a Mortgage and Assignment of Rents Rider to the Mortgage (the "Mortgage") of the Premises of even date with the Note, which Mortgage was filed for record in the Office of the Recorder of Deeds of Cook County, Illinois ("Office") as Document No. 97649273 prior to the recording of this Agreement; and

WHEREAS, Mortgagee is at the date hereof the owner and holder of the Note secured by the Mortgage.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, Tenant, Lessor and Mortgagee, intending to be legally bound hereby, covenant and agree as follows:

A. Tenant hereby acknowledges receipt of a copy of the Assignment of Rents Rider to Mortgage and agrees that it will be bound by the terms and provisions thereof.

B. Provided no Event of Default exists under the Lease, and DESIGN AGENCY, INC. is then in possession of the entire Leased Premises not having assigned the Lease or sublet all or any portion of the Leased Premises;

- (i) The right of possession of Tenant to the Leased Premises and Tenant's rights arising out of the Lease (including, without limitation, Tenant's rights and interests with respect to the insurance and condemnation proceeds) shall not be affected or disturbed by Mortgagee in the exercise of any of its rights under the Note or the Mortgage; and
- (ii) Any sale of the Leased Premises, pursuant to the exercise of any rights and remedies under the Mortgage or otherwise shall be made subject to the Lease and the rights of Tenant thereunder (including, without limitation, Tenant's rights and interests with respect to the insurance and condemnation proceeds); Tenant will attend to Mortgagee or any purchaser at such sale; and the Lease shall continue in accordance with its terms between Tenant and Mortgagee or such purchaser.

C. Mortgagee shall be entitled, but not obligated, to exercise the claims, rights, powers, privileges and remedies of the lessor under the Lease and shall be further entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by Tenant under the Lease as though Mortgagee were named therein as the lessor. Mortgagee shall not, by virtue of this Agreement, be or become subject to any liability or obligation to Tenant under the Lease or otherwise, until Mortgagee shall have obtained title to the Leased Premises, by foreclosure or otherwise, and then only to the extent of liabilities or obligations accruing during the time that Mortgagee owns title to the Leased Premises arising out of covenants that run with the land.

UNOFFICIAL COPY

RESOLVED

Property of Cook County Clerk's Office

UNOFFICIAL COPY

D. Tenant will not pay an installment of rent or any part thereof more than thirty (30) days prior to the due date of such installment, and Mortgagee shall not be bound by any payment of rent or additional rent made by Tenant to Landlord for more than one month in advance or by any amendment or modification of the Lease, made without the written consent of Mortgagee.

E. After notice is given by Mortgagee, pursuant to the Assignment of Rents Rider to Mortgagee, that the rentals under the Lease should be paid to Mortgagee, Tenant will pay to Mortgagee, or in accordance with the directions of Mortgagee, all rentals and other moneys due to become due to the Lessor under the Lease.

F. The Lease shall be subject and subordinate to the lien of the Mortgage and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications or replacements thereof.

G. This Agreement is executed by the undersigned Landlord not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and the undersigned Landlord hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on the undersigned Landlord personally to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by every person now or hereafter claiming any right or security hereunder.

H. This Agreement shall inure to the benefit of and shall be binding upon Tenant, Landlord, Landlord's beneficiaries and Mortgagee and their respective heirs, personal representatives, successors and assigns. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Mortgagee, not affect any other provisions 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 according to the laws of the State of Illinois.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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

DESIGN AGENCY, INC., an Illinois corporation

By: *Mary Pollock*
Its: *Secretary*

ATTEST:

By: *Mary Pollock*
Its: *Secretary*

AMERICAN NATIONAL BANK AND TRUST COMPANY, not personally, but as Trustee aforesaid

By: *[Signature]*
Its: *[Signature]*

ATTEST:

By: *David R. [Signature]*
Its: *ASSISTANT SECRETARY*

ALBANY BANK & TRUST COMPANY, a national banking association

By: *Michael [Signature]*
Its: *Vice-President*

ATTEST:

By: *Gary [Signature]*
Its: *[Signature]*

Property of Clerk's Office

97649273

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A LEGAL DESCRIPTION

LOT 28 (EXCEPT THE EAST 6.25 FEET THEREOF), ALL OF LOTS 29 AND 30 AND THE EAST 43.75 FEET OF LOT 31, IN CENTEX INDUSTRIAL PARK UNIT 22, BEING A SUBDIVISION OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #08-34-305-035-0000

PROPERTY 1000 PRATT AVENUE
ADDRESS ELK GROVE VILLAGE, IL.

Property of Cook County Clerk's Office

97649273

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF)

I, SHARON SCHLIES, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT MARY ROBERTSON the VICE President and the _____ (Assistant) Secretary of DESIGN AGENCY, INC., an Illinois corporation who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ President 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.

GIVEN under my hand and Notarial Seal this 3 day of JULY, A.D. 1997

"OFFICIAL SEAL"
SHARON SCHLIES
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 8/15/97

Sharon Schlies
Notary Public

My Commission expires: 8-15-97

COOK County Clerk's Office

97649273

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF IL)
COUNTY OF COOK) SS.

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT GREGORY S. KASPRZYK, (Vice) President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee under Trust Agreement dated June 1, 1987, and known as Trust Number 102674-09, and DAVID S. ROSENFIELD, Assistant Trust Officer/Assistant Cashier/Assistant Secretary of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such (Vice) President, and Assistant Trust Officer/Assistant Cashier/Assistant Secretary, 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 Bank as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant Trust Officer/Assistant Cashier/Assistant Secretary then and there acknowledged that _____, as Custodian of the seal of said Bank, did affix the seal to said instrument as _____ own free and voluntary act and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 1 day of AUG, 1997, A.D. 1997.

Brian T. Hese
Notary Public

My Commission expires: _____



97649273

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

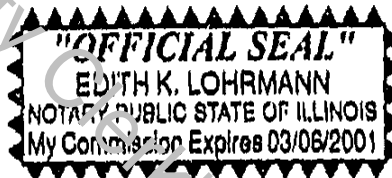
STATE OF ILLINOIS)
COUNTY OF COOK) SS.

I, The Undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Michael Bentzen, (Vice) President of ALBANY BANK & TRUST COMPANY, N.A., a national banking association and GARY H. WORCESTER, Assistant Trust Officer/Assistant Cashier/Assistant Secretary of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such (Vice) President, and Assistant Trust Officer/Assistant Cashier/Assistant Secretary, 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 Bank as Trustees as aforesaid, for the uses and purposes therein set forth; and the said Assistant Trust Officer/Assistant Cashier/Assistant Secretary then and there acknowledged that _____, as Custodian of the seal of said Bank, did affix the seal to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7th day of Aug, A.D. 1997

Edith K. Lohrmann
Notary Public

My Commission expires: _____



97649273

UNOFFICIAL COPY

Property of Cook County Clerk's Office

97649273