

Upon Recording Return To:
David I. Schrodt
Sonnenschein Nath & Rosenthal
8000 Sears Tower
Chicago, Illinois 60606

4864/0013 45 001 1997-12-23 11:13:59
Cook County Recorder 83.00

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") made as of the 5th day of December, 1997, by and among Nomura Asset Capital Corporation ("Lender"), Loews Chicago Cinemas, Inc., ("Tenant") and Fine Arts Venture as sole beneficiary of LaSalle National Bank Trust Number #100870 ("Landlord").

12/5/97

WITNESSETH:

WHEREAS, Lender has agreed to make a loan (the "Loan") to Landlord;

WHEREAS, the Loan will be evidenced by a mortgage or deed of trust note (the "Note") of even date herewith made by Landlord to order of Lender and will be secured by, among other things, a mortgage or deed of trust, assignment of leases and rents and security agreement (the "Mortgage/Deed of Trust") of even date herewith made by Landlord to Lender covering the land (the "Land") described on Exhibit A attached hereto and all improvements (the "Improvements") now or hereafter located on the land (the Land and the Improvements hereinafter collectively referred to as the "Property"); and

WHEREAS, by two leases between Landlord and Fine Arts Theatres, Inc. ("Original Tenant") (Tenant's predecessor in interest) dated as of December 6, 1982 (which leases, as the same may have been amended and supplemented from time to time, are hereinafter called the "Lease"), Landlord leased to Original Tenant approximately 40,252 square feet of space located in the Improvements (the "Premises"); and

WHEREAS, the parties hereto desire to make the Lease subject and subordinate to the Mortgage/Deed of Trust.

NOW, THEREFORE, the parties hereto, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as follows:

1. The Lease, as the same may hereafter be modified, amended or extended, and all of Tenant's right, title and interest in and to the Premises and all rights, remedies and options of Tenant under the Lease, are and shall be unconditionally subject and subordinate to the Mortgage/Deed of Trust and the lien thereof, to all the terms, conditions and provisions of the Mortgage/Deed of Trust, to each and every advance made or hereafter made under the Mortgage/Deed of Trust, and to all renewals, modifications, consolidations, replacements, substitutions and extensions of the Mortgage/Deed of Trust (so long as the Tenant's right is not adversely affected or the Tenant's obligations are not increased), so that at all times the Mortgage/Deed of Trust shall be and remain a lien on the Property prior and superior to the

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Lease for all purposes; provided, however, and Lender agrees, that so long as (A) no event has occurred and no condition exists (after giving effect to all applicable notice and cure periods) which would entitle Landlord to terminate the Lease or would cause, without further action of Landlord, the termination of the Lease or would entitle Landlord to dispossess Tenant from the Premises, (B) the term of the Lease has commenced and Tenant (or its permitted assignee or subtenant) is in possession of the Premises, (C) the Lease shall be in full force and effect then, and in such event, Tenant's leasehold estate under the Lease shall not be terminated, Tenant's possession of the Premises shall not be disturbed by Lender and Lender will accept the attornment of Tenant.

2. It is agreed that neither Lender nor its successors or assigns shall be liable under any warranty of construction contained in the Lease or any implied warranty of construction.

3. So long as the conditions contained in clauses (A) through (C) of Paragraph 1 above are satisfied:

- (a) Tenant's rights and privileges under the Lease (including without limitation) the right of Tenant and its patrons to use and enjoy the Premises and to perform alterations in accordance with the Lease or under any extensions thereof effected in accordance with any option therefor in the Lease, shall not be diminished or interfered with by Lender or anyone claiming by, through or under Lender, and Tenant's occupancy of the Premises shall not be disturbed by Lender for any reason whatsoever during the term of the Lease or any such extensions or renewals thereof; and
- (b) If the Premises are damaged by casualty, then, the insurance proceeds of such casualty shall be held by the Lender and disbursed in accordance with the Mortgage/Deed of Trust.

4. The provisions of Paragraphs 1 through 3 shall be effective and self-operative without any need for Lender or Tenant to execute any further documents. Tenant and Lender shall, however, confirm the provisions of this Article in writing upon request by either of them.

5. Notwithstanding anything to the contrary contained in the Lease, Tenant hereby agrees that in the event of any act, omission or default by Landlord or Landlord's agents, employees, contractors, licensees or invitees which would give Tenant the right, either immediately or after the lapse of a period of time, to terminate the Lease, or to claim a partial or total eviction, or to reduce the rent payable thereunder or credit or offset any amounts against future rents payable thereunder, Tenant will not exercise any such right (i) until it has given written notice of such act, omission or default to Lender by delivering notice of such act, omission or default, in accordance with Paragraph 11 hereof, and (ii) until a period of not less

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than sixty (60) days for remedying such act, omission or default shall have elapsed following the giving of such notice. Notwithstanding the foregoing, in the case of any default of Landlord which cannot be cured within such sixty (60) day period, if Lender shall within such period proceed promptly to cure the same (including such time as may be necessary to acquire possession of the Premises if possession is necessary to effect such cure) and thereafter shall prosecute the curing of such default with diligence, then the time within which such default may be cured by Lender shall be extended for such period as may be necessary to complete the curing of the same with diligence. Lender's cure of Landlord's default shall not be considered an assumption by Lender of Landlord's other obligations under the Lease. Unless Lender otherwise agrees in writing, Landlord shall remain solely liable to perform Landlord's obligations under the Lease (but only to the extent required by and subject to the limitation included with the Lease), both before and after Lender's exercise of any right or remedy under this Agreement, provided, however, that Lender shall become liable to perform such obligations from and after the date Lender succeeds to Landlord's interest in the Property (subject to the limitations contained in Paragraph 7 below). If Lender or any successor or assign becomes obligated to perform as Landlord under the Lease, such person or entity will be released from those obligations when such person or entity assigns, sells or otherwise transfers its interest in the Premises or the Property.

6. Without limitation of any of the provisions of the Lease, in the event that Lender succeeds to the interest of Landlord or any successor to Landlord, then subject to the provisions of this Agreement including, without limitation, Paragraph 1 above, the Lease shall nevertheless continue in full force and effect and Tenant shall and does hereby agree to attorn to and accept Lender and to recognize Lender as his Landlord under the Lease for the then remaining balance of the term thereof, and promptly after written request from Lender, Tenant shall execute and deliver to Lender an agreement of attornment reasonably satisfactory to Lender.

7. If Lender succeeds to the interest of Landlord or any successor to Landlord, in no event shall Lender have any liability for any act or omission of any prior landlord under the Lease which occurs prior to the date Lender succeeds to the rights of Landlord under the Lease, nor any liability for claims, offsets or defenses which Tenant might have had against Landlord. Notwithstanding the foregoing, Lender shall be liable to cure any condition existing on the date of such succession which violates Lender's obligations as landlord under the Lease. Tenant shall look only to the estate and property of Lender in the Land and the Improvements (including without limitation Lender's interest in any insurance proceeds or condemnation award) for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money in the event of any default by Lender as Landlord under the Lease, and no other property or assets of Lender shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to the Lease.

8. Tenant agrees that no prepayment of rent or additional rent due under the Lease

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of more than one month in advance, and no amendment, modification, surrender or cancellation of the Lease, and no waiver or consent by Landlord under the terms of the Lease, shall be binding upon or as against Lender, as holder of the Mortgage/Deed of Trust, and as Landlord under the Lease, if it succeeds to that position, with respect to any period after the date of attornment other than, and only to the extent that the Lease expressly required such a prepayment, unless consented to in writing by Lender. In addition, and notwithstanding anything to the contrary set forth in this Agreement, Tenant agrees that Lender, as holder of the Mortgage/Deed of Trust, and as Landlord under the Lease if it succeeds to that position, shall in no event have any liability for the performance or completion of any initial work or installations or for any loan or contribution or rent concession towards initial work, which are required to be made by Landlord (A) under the Lease or under any related Lease documents or (B) for any space which may hereafter become part of said Premises, and any such requirement shall be inoperative in the event Lender succeeds to the position of Landlord prior to the completion or performance thereof. Tenant and Landlord further agree that any subordination of the Lease to any future lien or encumbrance without Lender's prior written consent shall be null and void.

9. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute and be construed as one and the same instrument.

10. All remedies which Lender may have against Landlord provided herein, if any, are cumulative and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Lender and Landlord or others. If any party consists of multiple individuals or entities, each of same shall be jointly and severally liable for the obligations of such party hereunder.

11. All notices to be given under this Agreement shall be in writing and shall be deemed served upon receipt by the addressee if served personally or, if mailed, upon the first to occur of receipt or the refusal of delivery as shown on a return receipt, after deposit in the United States Postal Service certified mail, postage prepaid, addressed to the address of Landlord, Tenant or Lender appearing below, or, if sent by telegram, when delivered by or refused upon attempted delivery by the telegraph office. Such addresses may be changed by notice given in the same manner. If any party consists of multiple individuals or entities, then notice to any one of same shall be deemed notice to such party.

Lender's Address:

Nomura Asset Capital Corporation
Two World Financial Center, Building B
New York, New York 10281-1198
Attention: Ms. Sheryl McAfee

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Tenant's Address:

Loews Chicago Cinema, Inc.
c/o Loews Theatres
711 Fifth Avenue
New York, NY 10022
Attention: Chairmen

with a copy to:

Loews Theatre Management Corp.
711 Fifth Avenue
New York, NY 10022
Attention: General Counsel

Landlord's Address:

Fine Arts Building
410 South Michigan Avenue
Chicago, Illinois 60605
Attention: Thomas M. Graham, Room 812

12. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Illinois.

13. This Agreement shall apply to, bind and inure to the benefit of the parties hereto and their respective successors and assigns. As used herein "Lender" shall include any subsequent holder of the Mortgage/Deed of Trust.

14. This Agreement may be amended, discharged or terminated, or any of its provisions waived, only by a written instrument executed by the party to be charged.

15. Tenant acknowledges that Landlord has assigned to Lender its right, title and interest in the Lease and to the rents, issues and profits of the Property and the Property pursuant to the Mortgage/Deed of Trust, and that Landlord has been granted the license to collect such rents provided no Event of Default has occurred under, and as defined in, the Mortgage/Deed of Trust. Tenant agrees to pay all rents and other amounts due under the Lease directly to Lender upon receipt of written demand by Lender, (a "Rent Payment Notice") and Landlord hereby consents thereto. Landlord irrevocably directs Tenant to comply with any Rent Payment Notice, notwithstanding any contrary direction, instruction, or assertion by Landlord. Tenant shall be entitled to rely on any Rent Payment Notice. Tenant shall be under no duty to controvert or challenge any Rent Payment Notice. Tenant's compliance with a Rent Payment Notice shall not

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be deemed to violate the Lease. Landlord hereby releases Tenant from, and shall indemnify and hold Tenant harmless from and against, any and all loss, claim, damage, liability, cost or expense (including payment of reasonable attorneys' fees and disbursements) arising from any claim based upon Tenant's compliance with any Rent Payment Notice. Landlord shall look solely to Lender with respect to any claims Landlord may have on account of an incorrect or wrongful rent Payment Notice. Tenant shall be entitled to full credit under the Lease for any rent paid to Lender pursuant to a Rent Payment Notice to the same extent as if such Rent were paid directly to Landlord. The assignment of the Lease to Lender, or the collection of rents by Lender pursuant to such assignment, shall not obligate Lender to perform Landlord's obligations under the Lease.

16. The execution of this Agreement by Tenant shall be null and void unless a duplicate original hereof executed and acknowledged by Landlord and Lender is delivered to Tenant on or before November 1, 1997.

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be deemed to violate the Lease. Landlord hereby releases Tenant from, and shall indemnify and hold Tenant harmless from and against, any and all loss, claim, damage, liability, cost or expense (including payment of reasonable attorneys' fees and disbursements) arising from any claim based upon Tenant's compliance with any Rent Payment Notice. Landlord shall look solely to Lender with respect to any claims Landlord may have on account of an incorrect or wrongful rent Payment Notice. Tenant shall be entitled to full credit under the Lease for any rent paid to Lender pursuant to a Rent Payment Notice to the same extent as if such Rent were paid directly to Landlord. The assignment of the Lease to Lender, or the collection of rents by Lender pursuant to such assignment, shall not obligate Lender to perform Landlord's obligations under the Lease.

16. The execution of this Agreement by Tenant shall be null and void unless a duplicate original hereof executed and acknowledged by Landlord and Lender is delivered to Tenant on or before December 31, 1997.

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

NOMURA ASSET CAPITAL CORPORATION, a Delaware corporation

By: [Signature]
Name: Richard Spinelli
Title: VP

FINE ARTS VENTURE, as sole beneficiary of LaSalle National Bank Trust No. 100870

By: [Signature]
Name:
Title:

LOEWS CHICAGO CINEMAS, INC., an Illinois Corporation

By: [Signature]
Seymour J. Smith
Executive Vice President

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1: The South 20 feet of Lot 9 (except the east 10 feet) of assessor's division of Lots 1 to 5 and 8 in Block 9 in the fractional Section 15, Township 39 North, Range 14 East of the third principal meridian, in Cook County, Illinois.

PARCEL 2: Lots 13, 14, 15, 16 and 17 in assessor's division of Lots 1, 2, 3, 4, 5 and 8 in Block 9 in fractional Section 15 additional to Chicago, in Township 39 North, Range 14 East of the third principal meridian, in Cook County, Illinois.

PARCEL 3: An easement for the benefit of Lots 14, 15, 16 and 17 of Parcel 2 and the owners thereof for ingress and egress along and over a private alley or driveway over the North 15 feet of Lots 18 and 19 (except that part of Lot 19 lying West of the East 169 feet thereof) in the assessor's division of Lots 1, 2, 3, 4, 5 and 8 in Block 9 in fractional Section 15 addition to Chicago in Township 39 North, Range 14 hereinafter referred to as the Servient Estate including the right to use all entrances and exits of the building mainly on Parcel 2 for ingress and egress from said building to said alley together with the right to maintain on the Servient Estate such part, if any to walls and foundations, of the building located mainly on Parcel 2 as may at the date hereof encroach the Servient Estate as provided in an instrument executed by the LaSalle National Bank, a national banking association, as trustee under Trust Agreement dated May 1, 1945 and known as Trust Number 10693 and the Roosevelt College of Chicago, an Illinois corporation dated February 27, 1947 and recorded as Document No. 14005610 in the Recorder's Office of Cook County, Illinois, all in Cook County, Illinois.

Commonly known as: 410-418 South Michigan
and 421 South Wabash
Chicago, Illinois

P.L. Nos.: 17-15-109-005
17-15-109-010
17-15-109-011

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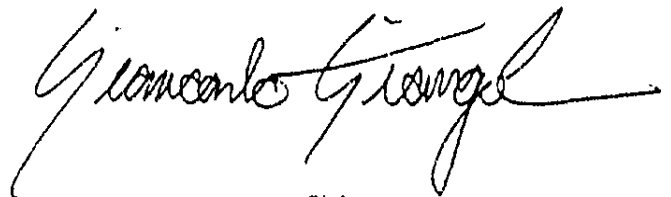
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STATE OF New York)
COUNTY OF New York) ss.

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Richard Spinelli, known to me to be the A.V.P. of Nomura Asset Capital Corporation, the entity that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said entity, and acknowledged to me that he executed the same as such A.V.P. for the entity and that such entity executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 12 day of December 1997.



GIANCARLO S. GIANGOLA
Notary Public, State of New York
No. 01G15065048
Qualified in New York County
Commission Expires Sept. 3, 1998

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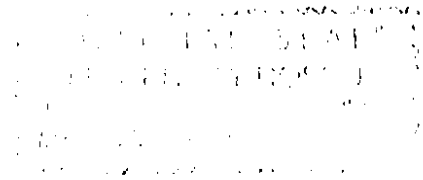
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STATE OF ILLINOIS)
COUNTY OF Cook) ss.

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Thomas M. Graham, known to me to be the Manager and a Member of Fine Arts Venture, the sole beneficiary of LaSalle National Bank Trust No. 100870 and the Illinois limited liability company that executed the foregoing instrument, and known to me to be the person who executed the foregoing instrument on behalf of said entity, and acknowledged to me that he executed the same as such Manager for the limited liability company and that such limited liability company executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 9th day of December, 1997.



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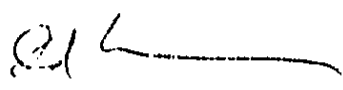
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COUNTY OF NEW YORK)

) SS:

STATE OF NEW YORK)

On the 5th day of December, 1997 before me personally came Seymour Smith, to me known, who, being by me duly sworn, did depose and say that he resides at 140-10 84th Drive, Jamaica, New York, that he is Executive Vice President of Loews Chicago Cinemas, Inc., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.



Notary Public

DAVID I. RADWIN
NOTARY PUBLIC STATE OF NEW YORK
NO. C...
QUALIFIED IN Y... CITY
COMMISSION EXPIRES APRIL 12, 1997

Notary of Cook County Clerk's Office

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