



24th Fl
NY, NY 10022-4834

FIRST UNION FORM
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GIT 4205927 4/14 MJ

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (the "Agreement") is dated as of the 26th day of September, 1996, between First Union National Bank of North Carolina, a national banking association (the "Lender"), and Trattoria Ginotto, Ltd., a _____ (the "Tenant").

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RECITALS

A. Tenant is the tenant under a certain lease (the "Lease") dated July 28, 1995, with LASALLE NATIONAL TRUST, N.A., Not Personally, but as Trustee under Trust Agreement dated September 1, 1998 and known as Trust No. 113924 (the "Landlord"), of premises described in the Lease (the "Premises") located in a certain [shopping center/office building/warehouse/industrial park/hotel] known as Brookside Plaza located in Northbrook, Illinois and more particularly described in Exhibit A attached hereto and made a part hereof (such [shopping center/office building/warehouse/industrial park/hotel], including the Premises, is hereinafter referred to as the "Property"). A notice of the Lease is recorded with the _____ Registry of Deeds/Office of the Clerk (the "Registry"), in Book _____, Page _____ as Document No. _____.

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B. This Agreement is being entered into in connection with a mortgage loan (the "Loan") from Lender to Landlord, secured inter alia, by: (a) a first mortgage or deed of trust on and of the Property (the "Mortgage") dated September 31, 1996 to be recorded with the Registry; and (b) a first assignment of leases and rents on the Property (the "Assignment of Leases and Rents") dated September 31, 1996 to be recorded with the Registry. The Mortgage and the Assignment of Leases and Rents are hereinafter collectively referred to as the "Security Documents".

AGREEMENT

For mutual consideration, including the mutual covenants and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Tenant agrees that the Lease is and shall be, at the option of the Lender upon notice to Tenant, at any time and from time to time, either subject and subordinate, or superior, to the

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DEPT-01 RECORDING \$39.50
DEPT-10 PENALTY \$36.00
COOK COUNTY RECORDER
#8103 # SK *-97-011718
T#009 TRAN 6476 01/07/97 12:35:00

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Security Documents and to all present or future advances under the obligations secured thereby and all renewals, amendments, modifications, consolidations, replacements and extensions of the secured obligations and the Security Documents, to the full extent of all amounts secured by the Security Documents from time to time. Such options of the Lender may be exercised an unlimited number of times. If subordinated, said subordination is to have the same force and effect as if the Security Documents and such renewals, modifications, consolidations, replacements and extensions thereof had been executed, acknowledged, delivered and recorded prior to the Lease, any amendments or modifications thereof and any notice thereof.

2. Lender agrees that, if the Lender exercises any of its rights under the Security Documents, including an entry by Lender pursuant to the Mortgage or a foreclosure of the Mortgage, Lender shall not disturb Tenant's right of quiet possession of the Premises under the terms of the Lease so long as Tenant is not in default beyond any applicable grace period of any term, covenant or condition of the Lease.

3. Tenant agrees that, in the event of a foreclosure of the Mortgage by Lender or the acceptance of a deed in lieu of foreclosure by Lender or any other succession of Lender to fee ownership, Tenant will attorn to and recognize Lender as its landlord under the Lease for the remainder of the term of the Lease (including all extension periods which have been or are hereafter exercised) upon the same terms and conditions as are set forth in the Lease, and Tenant hereby agrees to pay and perform all of the obligations of Tenant pursuant to the Lease.

4. Tenant agrees that, in the event Lender succeeds to the interest of Landlord under the Lease, Lender shall not be:

(a) liable for any act or omission of any prior landlord (including, without limitation, the then defaulting Landlord), or

(b) subject to any defense or offsets which Tenant may have against any prior Landlord (including, without limitation, the then defaulting Landlord), or

(c) bound by any payment of rent or additional rent which Tenant might have paid for more than one month in advance of the due date under the Lease to any prior Landlord (including, without limitation, the then defaulting Landlord), or

(d) bound by any obligation to make any payment to Tenant which was required to be made prior to the time Lender succeeded to any prior Landlord's interest, or

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(e) accountable for any monies deposited with any prior Landlord (including security deposits), except to the extent such monies are actually received by Lender, or

(f) bound by any amendment or modification of the Lease made without the consent of Lender.

5. Tenant agrees that, notwithstanding any provision hereof to the contrary, the terms of the Mortgage shall continue to govern with respect to the disposition of any insurance proceeds or eminent domain awards, and any obligations of Landlord to restore the real estate of which the Premises are a part shall, insofar as they apply to Lender, be limited to insurance proceeds or eminent domain awards received by Lender after the deduction of all costs and expenses incurred in obtaining such proceeds or awards.

6. Tenant hereby agrees to give to Lender copies of all notices of Landlord default(s) under the Lease in the same manner as, and whenever, Tenant shall give any such notice of default to Landlord, and no such notice of default shall be deemed given to Landlord unless and until a copy of such notice shall have been so delivered to Lender. Lender shall have the right to remedy any Landlord default under the Lease, or to cause any default of Landlord under the Lease to be remedied, and for such purpose Tenant hereby grants Lender such additional period of time as may be reasonable to enable Lender to remedy, or cause to be remedied, any such default in addition to the period given to Landlord for remedying, or causing to be remedied, any such default. Tenant shall accept performance by Lender of any term, covenant, condition or agreement to be performed by Landlord under the Lease with the same force and effect as though performed by Landlord. No Landlord default under the Lease shall exist or shall be deemed to exist (i) as long as Lender, in good faith, shall have commenced to cure such default within the above referenced time period and shall be prosecuting the same to completion with reasonable diligence, subject to force majeure, or (ii) if possession of the Premises is required in order to cure such default, or if such default is not susceptible of being cured by Lender, as long as Lender, in good faith, shall have notified Tenant that Lender intends to institute proceedings under the Security Documents, and, thereafter, as long as such proceedings shall have been instituted and shall be prosecuted with reasonable diligence. The Lease shall not be assigned (except in the event of an assignment that is permitted in the Lease without Landlord's consent) by Tenant, modified, amended or terminated (except in the event of a termination that is permitted in the Lease without Landlord's consent) without Lender's prior written consent in each instance. In the event of the termination of the Lease by reason of any default thereunder by Landlord, upon Lender's written request, given within thirty (30) days after any such termination, Tenant, within fifteen (15)

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days after receipt of such request, shall execute and deliver to Lender or its designee or nominee a new lease of the Premises for the remainder of the term of the Lease upon all of the terms, covenants and conditions of the Lease. Neither Lender nor its designee or nominee shall become liable under the Lease unless and until Lender or its designee or nominee becomes, and then only with respect to periods in which Lender or its designee or nominee becomes, the fee owner of the Premises. Lender shall have the right, without Tenant's consent, to foreclose the Mortgage or to accept a deed in lieu of foreclosure of the Mortgage or to exercise any other remedies under the Security Documents.

7. Tenant has no knowledge of any prior assignment or pledge of the rents accruing under the Lease by Landlord. Tenant hereby consents to the Assignment of Leases and Rents from Landlord to Lender in connection with the Loan. Tenant acknowledges that the interest of the Landlord under the Lease is to be assigned to Lender solely as security for the purposes specified in said assignments, and Lender shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, unless Lender shall specifically undertake such liability in writing. Tenant agrees that upon receipt of a written notice from Lender of a default by Landlord under the Loan, Tenant will thereafter, if requested by Lender, pay rent to Lender in accordance with the terms of the Lease.

8. If Tenant is a corporation, each individual executing this Agreement on behalf of said corporation represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the by-laws of said corporation, and that this Agreement is binding upon said corporation in accordance with its terms. If Tenant is a partnership, each individual executing this Agreement on behalf of said partnership represents and warrants that he is duly authorized to execute and deliver this Agreement on behalf of said partnership in accordance with the partnership agreement for said partnership.

9. Any notice, election, communication, request or other document or demand required or permitted under this Agreement shall be in writing and shall be deemed delivered on the earlier to occur of (a) receipt or (b) the date of delivery, refusal or nondelivery indicated on the return receipt, if deposited in a United States Postal Service Depository, postage prepaid, sent certified or registered mail, return receipt requested, or if sent via a recognized commercial courier service providing for a

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receipt, addressed to Tenant or Lender, as the case may be, at the following addresses:

If to Tenant:

with a copy to:

If to Lender:

First Union National Bank of North Carolina
One First Union Center TW-8
Charlotte, North Carolina 28288
Attention: Lawrence A. Brown, Esq.

with a copy to:

Graham & James
885 Third Avenue
New York, New York 10022
Attn: Mitch Fenton

10. The term "Lender" as used herein includes any successor or assign of the named Lender herein, including without limitation, any co-lender at the time of making the Loans, any purchaser at a foreclosure sale and any transferee pursuant to a deed in lieu of foreclosure, and their successors and assigns, and the term "Tenant" as used herein includes any successor and assign of the named Tenant herein; provided, however, that such reference to Tenant's successors and assigns shall not be construed as Lender's consent to any assignment or other transfer by Tenant.

11. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, such provision shall be deemed deleted from this Agreement, and the other provisions of this Agreement shall remain in full force and effect, and shall be liberally construed in favor of Lender.

12. No termination of the Lease because the remainder of the Premises is unsuitable to Tenant's purpose for the Premises after a casualty or a taking of part of the Premises pursuant to the power of eminent domain or condemnation shall occur until

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Lender confirms that the remainder of the Premises is unsuitable to Tenant's purpose for the Premises.

13. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing executed by the party against which enforcement of the termination, amendment, supplement, waiver or modification is sought.

This Agreement shall be construed in accordance with the laws of the State of Illinois.

Witness the execution hereof (under seal) as of the date first above written.

LENDER: FIRST UNION NATIONAL BANK OF
NORTH CAROLINA

By: 

Name: BARRY P. REINER
Title: VICE PRESIDENT

TENANT: TRAFFORIA GINOTTO, LTD.

By: 

Name:
Title:

The undersigned Landlord hereby consents to the foregoing Agreement and confirms the facts stated in the foregoing Agreement.

LANDLORD: STONEGATE NORTHBROOK CORPORATION
an Illinois Corporation its General
Partner: BROOKSIDE PLAZA PARTNERSHIP

By: 

Name: George M. Moser
Title: Vice President

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[INSERT APPROPRIATE ACKNOWLEDGEMENTS FOR RECORDING]

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STATE OF ILLINOIS)
)SS:
COUNTY OF COOK)

THE undersigned, the Notary Public, in and for the County and State aforesaid, does hereby certify, that Calogero DiCarlo and _____ personally known to me to be the President and _____ of Trattoria Girotta Ltd a Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged under oath that as such Calogero DiCarlo and _____ they signed and delivered the said instrument pursuant to authority duly given to them by said Corporation.

Given under my hand and seal this 26th day of September, 1996.

Joyce M Sullivan
Notary Public

My Commission Expires:

10-28 ²⁰⁰⁰ 1999



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COOK COUNTY CLERK'S OFFICE
100 N. LAUREL ST. CHICAGO, IL 60602
TEL: 312.603.1000 FAX: 312.603.1001

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STATE OF NORTH CAROLINA)

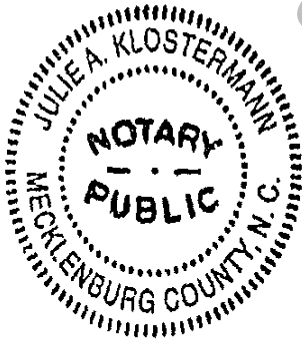
COUNTY OF *Mecklenburg*) ss.:

On the 31 day of December, 1996 before me personally came Randy P. Raines to me known, who being duly sworn, did depose and say that he resides at One First Union Center, DC6, Charlotte, North Carolina; that he is Vice President of FIRST UNION NATIONAL BANK OF NORTH CAROLINA, a national banking association and who acknowledged the foregoing to be the free act and deed of said association.

Julie A. Klostermann
Notary Public

NOTARIAL SEAL

My Commission Expires June 16, 1997



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EXHIBIT "A" LEGAL DESCRIPTION

PARCEL 1: THAT PART OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: (NOTE: THE EAST AND WEST 1/4 LINE OF AFORESAID SECTION 4 BEARS DUE EAST AND WEST FOR THE FOLLOWING COURSES): BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION; THENCE NORTH 0 DEGREES 36 MINUTES 30 SECONDS EAST IN THE EAST LINE OF THE NORTHEAST 1/4 OF AFORESAID SECTION A DISTANCE OF 146.77 FEET TO THE SOUTHEAST CORNER OF A 1 ACRE TRACT OF LAND CONVEYED BY DEED RECORDED AS DOCUMENT NO. 12439316; THENCE SOUTH 89 DEGREES 32 MINUTES 30 SECONDS WEST IN THE SOUTH LINE OF AFORESAID 1 ACRE TRACT A DISTANCE OF 83.46 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE SOUTH 00 DEGREES 25 MINUTES 30 SECONDS WEST IN A LINE A DISTANCE OF 188.85 FEET TO A POINT; THENCE SOUTH 70 DEGREES 16 MINUTES WEST IN A LINE A DISTANCE OF 32.79 FEET TO A POINT; THENCE SOUTH 25 DEGREES 35 MINUTES WEST IN A LINE A DISTANCE OF 39.60 FEET TO A POINT; THENCE SOUTH 3 DEGREES 54 MINUTES EAST IN A LINE A DISTANCE OF 132.41 FEET TO A POINT IN THE NORTHERLY LINE OF THE ILLINOIS TOLL HIGHWAY; THENCE NORTHWESTERLY IN AFORESAID NORTHERLY LINE, BEING A CURVED LINE, CONVEX TO THE SOUTH, HAVING A RADIUS OF 2724.79 FEET, AN ARC DISTANCE OF 226.42 FEET TO THE EASTERLY LINE OF WAUKEGAN ROAD, BEING 50 FEET NORTHEASTERLY OF THE CENTER LINE THEREOF; THENCE NORTH 27 DEGREES 01 MINUTES 30 SECONDS WEST IN AFORESAID EASTERLY LINE A DISTANCE OF 345.15 FEET TO THE AFORESAID SOUTH LINE OF THE 1 ACRE TRACT; THENCE NORTH 89 DEGREES 32 MINUTES 30 SECONDS EAST IN AFORESAID SOUTH LINE A DISTANCE OF 416.20 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2: THAT PART OF SECTIONS 3 AND 4, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: THE EAST AND WEST 1/4 LINE OF AFORESAID SECTION 4 BEARS DUE EAST AND WEST FOR THE FOLLOWING COURSES BEGINNING AT THE WEST 1/4 CORNER OF AFORESAID SECTION 3, BEING ALSO THE EAST 1/4 CORNER OF AFORESAID SECTION 4; THENCE NORTH 00 DEGREES 36 MINUTES 30 SECONDS EAST IN THE WEST LINE OF THE NORTHWEST 1/4 OF AFORESAID SECTION 3, A DISTANCE OF 146.77 FEET TO THE SOUTHEAST CORNER OF A 1 ACRE TRACT OF LAND CONVEYED BY DEED RECORDED AS DOCUMENT NO. 12439316 FOR THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE SOUTH 89 DEGREES 32 MINUTES 30 SECONDS WEST IN THE SOUTH LINE OF AFORESAID 1 ACRE TRACT, A DISTANCE OF 83.46 FEET TO A POINT; THENCE SOUTH 00 DEGREES 25 MINUTES 30 SECONDS WEST, IN A LINE A DISTANCE OF 188.85 FEET TO A POINT; THENCE SOUTH 70 DEGREES 16 MINUTES WEST, IN A LINE, A DISTANCE OF 32.79 FEET TO A POINT; THENCE SOUTH 25 DEGREES 35 MINUTES WEST IN A LINE, A DISTANCE OF 39.60 FEET OF A POINT; THENCE SOUTH 03 DEGREES 54 MINUTES EAST IN A LINE, A DISTANCE OF 132.41 FEET TO THE NORTHERLY LINE OF THE ILLINOIS TOLL HIGHWAY; THENCE SOUTHEASTERLY IN AFORESAID NORTHERLY LINE, BEING A CURVED LINE, CONVEX TO THE SOUTH, HAVING A RADIUS OF 2724.79 FEET, AN ARC DISTANCE OF 226.42 FEET TO A POINT IN THE EAST LINE OF THE WEST 1/4 OF THE SOUTHWEST 1/4 OF AFORESAID SECTION 3, SAID POINT BEING 274.97 FEET SOUTH OF THE EAST AND WEST 1/4 LINE OF AFORESAID SECTION 3; THENCE SOUTH 00 DEGREES 34 MINUTES WEST IN AFORESAID PARALLEL LINE (BEING AN EAST LINE OF AFORESAID TOLL HIGHWAY), A DISTANCE OF 15.51 FEET TO ANOTHER NORTHERLY LINE OF AFORESAID TOLL HIGHWAY; THENCE SOUTHEASTERLY ON LAST DESCRIBED NORTHERLY LINE OF AFORESAID TOLL HIGHWAY, BEING A CURVED LINE CONVEX TO THE SOUTH, HAVING A RADIUS OF 2739.79 FEET, AN ARC DISTANCE OF 100.14 FEET TO A POINT IN THE EAST LINE OF AFORESAID WEST 1/4 OF SECTION 3; THENCE NORTH 00 DEGREES 34 MINUTES EAST IN AFORESAID PARALLEL LINE, 296.42 FEET TO THE AFORESAID EAST AND WEST 1/4 LINE OF SECTION 3; THENCE NORTH 00 DEGREES 36 MINUTES 30 SECONDS EAST IN THE EAST LINE OF THE WEST 1/4 OF THE NORTHWEST 1/4 OF AFORESAID SECTION 3, 231 FEET TO THE SOUTH LINE OF BLOCK 5 IN GLEN-BROOK COUNTRYSIDE, BEING A SUBDIVISION OF PART OF THE AFORESAID NORTHWEST 1/4; THENCE NORTH 89 DEGREES 58 MINUTES 30 SECONDS WEST IN AFORESAID SOUTH LINE OF BLOCK 5, BEING ALSO PARALLEL WITH AFORESAID EAST AND WEST 1/4 LINE, A DISTANCE OF 347.50 FEET TO THE WEST LINE OF THE AFORESAID NORTHWEST 1/4; THENCE SOUTH 00 DEGREES 36 MINUTES 30 SECONDS WEST IN THE WEST LINE OF AFORESAID NORTHWEST 1/4, A DISTANCE OF 84.23 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Brookside Plaza
445-573 Waukegan Rd, Northbrook
C/K/A

P.I.N. Nos : 04-04-400-014 04-03-300-006
04-03-300-001 04-04-400-015

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