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City Recorder 37.50

SUBORDINATION AND ATTORNMENT AGREEMENT

This Subordination and Attornment Agreement (the "Agreement") effective as of this 28th day of October, 1997, between CoVest Banc, F.S.B. ("Mortgagee"), which has an office at 770 West Dundee Road, Arlington Heights, Illinois 60004, and White Hen Pantry, Inc. ("Tenant"), located at 1143 Lee Street, Des Plaines, Illinois 60016.

R E C I T A L S

A. Tenant has entered into that certain lease agreement dated April 8, 1991 with Chicago Title & Trust Company as Trustee under Trust Agreement dated April 10, 1984 and known as Trust No. 1085164 ("Landlord"), as Lessor, which lease agreement covers the premises (the "Premises") in that certain real property (the "Property") commonly known as 1131-1175 Lee Street, Des Plaines, Illinois 60016, and as legally described as follows:

Lots 3, 4, and 5 in August Raddatz' Subdivision of part of the Northeast 1/4 of Section 20, Township 41 North, Range 12, East of the Third Principal Meridian, lying East of Lee Street and West of the right of way of the Minneapolis St. Paul and Sault Ste. Marie Railroad, according to the Plat thereof recorded December 19, 1921, as Document Number 144799, in Cook County Illinois,

(said lease agreement, together with any and all amendments, modifications, extensions, renewals, consolidations and replacements thereof now existing hereafter entered into are collectively the "Lease");

B. Mortgagee has made a loan to Landlord secured by the lien of a mortgage from Landlord to the Mortgagee (herein, together with all amendments, modifications, extensions, renewals, consolidations and replacements thereof now existing or hereafter entered into, collectively, the "Mortgage") on the Property;

C. Tenant has agreed to subordinate the Lease to the lien of the Mortgage and Mortgagee has agreed to grant non disturbance to Tenant under the Lease on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the Premises and of the sum of One Dollar (\$1.00) by each party in hand paid to the other, the receipt and sufficiency of which are hereby acknowledge, it is hereby agreed as follows:

1. Subordination. The Lease (including all of the terms, covenants and provisions thereof) is and shall be subject and subordinate in all respects to the Mortgage, to the full extent of any and all amounts from time to time secured thereby and interest thereon, all with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease.

2. Attornment. (a) Tenant covenants and agrees that in the event of foreclosure of the Mortgage, whether by power of sale or by court action, or upon a transfer of the Property or the Premises by conveyance in lieu of foreclosure (the

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purchaser at foreclosure or the transferee in lieu of foreclosure, including Mortgagee if it is such purchaser or transferee, and their successors and assigns being herein called "Purchaser"), Tenant shall attorn to Purchaser as Tenant's new landlord, and agrees that the Lease shall continue in full force and effect as a direct lease between Tenant and Purchaser upon all of the terms, covenants, conditions and agreements set forth in the Lease; provided, however, that in no event shall Purchaser be: (1) liable for any act or omission of any previous landlord (including Landlord); (2) subject to any offset, defense, deduction or counterclaim which Tenant might be entitled to assert against any previous landlord (including Landlord); (3) bound by any payment of rent made by Tenant to any previous landlord (including Landlord) for more than one (1) month in advance of its due date; (4) bound by any amendment or modification of the Lease hereafter made without the written consent of Mortgagee; (5) liable for any deposit that Tenant may have given to any previous landlord (including Landlord) which has not, as such, been transferred to and received by Purchaser; or (6) otherwise liable with respect to any act, omission, event, condition or circumstance to the extent that the same occurred or arose before such transfer of the Property or the Premises to Purchaser.

(b) The provisions of this Agreement regarding attornment by Tenant shall be self-operative and effective without the necessity of execution of any new lease or other document on the part of any party hereto or the respective heirs, legal representatives, successors or assigns of any such party. Tenant agrees, however, to execute and deliver at any time and from time to time, promptly upon the written request of Landlord or of any holder(s) of any of the indebtedness or other obligations secured by the Mortgage, an instrument or certificate which, in the reasonable judgment of Landlord or of such holder(s), is necessary in any such foreclosure proceeding or otherwise to evidence such attornment.

3. Mortgagee's Consent. The Landlord's consent, approval or waiver under or with respect to the Lease or the Premises or any matter related thereto shall not be effective unless such consent, approval or waiver is accompanied by the written consent of Mortgagee. Without limiting the generality of the foregoing, without the prior written consent of Mortgagee, Tenant will not (a) enter into any agreement amending or terminating the Lease, (b) cancel the term of, or surrender, the Lease, or (c) assign or sublet all or any part of the Premises, except only pursuant to any assignment or sublease which, under the express provisions of the Lease Tenant is entitled to make without the consent of the Landlord.

4. Landlord's Default. Tenant hereby agrees to provide Mortgagee with written notice of any casualty damage to the Premises and any default under the Lease by the Landlord and to provide Mortgagee the greater of (a) thirty (30) days or (b) such reasonable period of time as is necessary thereafter to cause such damage to be repaired (if the Landlord is obligated under the Lease to repair or cause such damage to be repaired) or to remedy such default, as the case may be, prior to exercising any right or remedy of Tenant under the Lease. Notwithstanding the foregoing, Tenant agrees that Mortgagee shall have no obligation to remedy any such default.

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5. Estoppel Certificate. Tenant agrees at any time and from time to time to execute, deliver and acknowledge to Landlord, to Mortgagee or to any third party designated by Landlord or by Mortgagee within ten (10) days following Landlord's or Mortgagee's written request therefore, (a) a statement in writing certifying that the Lease is in full force and effect after possession is given Tenant, that Landlord is not in default thereunder (or specifying any defaults by Landlord which Tenant alleges), that rent has not been prepaid for more than one (1) month in advance, and specifying any further information about the Lease or the Premises which Landlord or Mortgagee or said third party may reasonably request; (b) a statement in writing that Tenant will recognize the Mortgagee as assignee of the Landlord's rights under the Lease; and (c) a statement in writing acknowledging or denying receipt of notice of any conditional or security assignment of the Lease to any third party. Tenant understands that Mortgagee and/or prospective purchasers, other mortgagees or lessors of the Premises or any part hereof will rely on such certificates. Tenant's obligation to deliver such certificates within ten (10) days as described above is a material obligation of Tenant hereunder and under the Lease.

6. Further Subordination. Tenant, for itself and its successors and assigns, agrees that, without the prior written consent of Mortgagee, Tenant will not (a) enter into any subordination agreement with any person other than Mortgagee unless required by its bank or commercial lender if its lease is used as collateral; or (b) agree to attorn to or recognize any purchaser of the Property at any foreclosure sale under any lien other than that of the Mortgage or any transferee who acquires the Property by deed in lieu of foreclosure or otherwise under any lien other than that of the Mortgage (provided, however, that this provision shall not be deemed to constitute the Mortgagee's consent to the placing of any lien other than the Mortgage on the Property).

7. Acknowledgment and Agreement by Landlord. Landlord, as landlord under the Lease and grantor under the Mortgage, acknowledges and agrees for itself and its heirs, representatives, successor and assigns that: (a) this Agreement does not constitute a waiver by Mortgagee of any of its rights under the Mortgage, Note or Security Documents and does not in any way release Landlord from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Mortgage, Note and Security Documents; (b) the provisions of the Mortgage, Note and Security Documents remain in full force and effect and must be complied with by Landlord; and (c) in the event of a default under the Mortgage, Note or Security Documents, Tenant may pay all rent and all other sums due under the Lease to Mortgagee as provided herein or in the Mortgage, Note and Security Documents or any separate assignment. Landlord represents and warrants to Mortgagee that a true and complete copy of the Lease has been delivered by Landlord to Mortgagee.

8. Lease Status. Landlord and Tenant each certify that Mortgagee that neither Landlord nor Tenant has knowledge of any default on the part of the other under the Lease, that the Lease is bona fide and contains all of the agreements of the parties thereto with respect to the letting of the Premises and that all of the agreements and provisions therein contained are in full force and effect. Tenant and Landlord hereby agree that they shall not amend, alter, terminate, or waive any provision of, or

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consent to the amendment, alteration, termination or waiver of any provision of the Lease without the prior written consent of Mortgagee, which consent will not be unreasonably withheld or delayed by Mortgagee. If Mortgagee does not provide written notice of its disapproval of any amendment, alteration, termination or waiver, within fifteen (15) business days after Mortgagee's receipt of same, Mortgagee shall be deemed to have consented to said amendment, alteration, termination or waiver.

9. Insurance Proceeds and Condemnation Awards. Tenant hereby agrees that any interest of Tenant in any insurance, condemnation or eminent domain proceeds or awards made with respect to any interest in the Premises shall be subordinate to the interest of Mortgagee in such proceeds or awards. Tenant will neither seek nor accept insurance, any condemnation or eminent domain proceeds or awards made with respect to any interest in the Premises until all amounts secured by the Mortgage have been paid in full. However, Tenant reserves the right to make a separate claim for trade fixtures and moving expenses if separately allocated, and to any insurance proceeds affecting the demised premises only.

10. Notice. Each notice, demand or other communication in connection with this Agreement shall be in writing and shall be deemed to be given to and served upon the addressee thereof on the earlier of (a) actual delivery to such addressee as its address set out above, or (b) the third business day after deposit thereof in the United States mails, registered or certified mail, return receipt requested, first class postage prepaid, addressed to such addressee at its address set out above. By notice complying with this section, any party may from time to time designate a different address in the 48 contiguous continental United States as its address for the purpose of the receipt of notice hereunder.

11. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

12. Recording. The parties hereto agree that this Agreement may be recorded in the public records of the country in which the Property is located.

13. Miscellaneous.

(a) This Agreement supersedes any inconsistent provision of the Lease, but only to the extent of any specific inconsistency and only as between Mortgagee and the Tenant and not between Tenant and Landlord.

(b) Nothing contained in this Agreement shall be construed in derogation of or in any way to impair or affect the liens, security interests or provisions of the Mortgage or Security Documents.

(c) This Agreement shall inure to the benefit of and be binding upon Mortgagee, Landlord, Tenant and their respective successors and permitted assigns, and any Purchaser, and its heirs, personal representatives, successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of Mortgagee, all obligations and liabilities of the assigning Mortgagee under this

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as provided in the Lease

Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Mortgagee's interest is assigned or transferred; and provided further that the interest of the Tenant under this Agreement may be assigned or transferred, ~~so long as Tenant shall remain liable for all representations, warranties, guaranties and indemnifications, through the current term of the Lease, plus any option exercised by Tenant or its Assignee and, subject to the prior written consent of Mortgagee, which consent shall not be unreasonably withheld. If Mortgagee does not provide written notice of its disapproval of any assignment within fifteen (15) business days after Mortgagee's receipt of same, Mortgagee shall be deemed to have consented to said assignment.~~

(d) If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not apply to or affect any of the provision thereof, but this Agreement shall be construed as if such invalidity, illegality, or unenforceability did not exist.

(e) This Agreement and its validity, enforcement and interpretation shall be governed by the laws of the State of Illinois and applicable United States federal law except only to the extent, if any, that the laws of the state in which the Property is located necessarily control.

(f) The words "herein", "hereof" and "hereunder" and other similar compounds of the word "here" as used in this Agreement refer to this entire Agreement and not to any particular section or provision.

(g) This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

14. Counterparts. This Agreement may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Agreement.

(Signatures follow on page 6)

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TENANT:

White Hen Pantry, Inc.

By: *George S. Bellis*

Its: Senior Vice President

Attest: *Robert [Signature]*

Its: Secretary

MORTGAGEE:

CoVest Banc, F.S.B.

By: *Philip L. [Signature]*

Its: VP

Attest: *RK [Signature]*

Its: EVP

LANDLORD:

CHICAGO TITLE LAND TRUST COMPANY, Successor to
Chicago Title & Trust Company
as Trustee under Trust Agreement
dated April 10, 1984 and known
as Trust Number 1085164

**SEE ATTACHED EXCULPATORY
CLAUSE FOR SIGNATURE**

By: _____

Its: _____

Attest: _____

Its: _____

AFTER RECORING
MAIL TO: →

This Document Prepared by:

BRUCE F. HOFFMAN
150 N. Wacker Drive, Suite 1100
Chicago, Illinois 60606
312/726-0001

(6)

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Prepared by
NATHAN HOFFMAN
1100 North Dearborn Drive, Suite 1100
Chicago, IL 60610

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ACKNOWLEDGMENT - LANDLORD

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

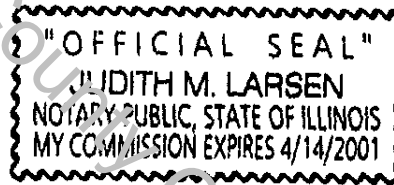
I, Judith M. Larsen, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____ and _____ officers of Chicago Title and Trust Company personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as their free and voluntary act as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4th day of November, 1997.

Judith M. Larsen
Notary Public

My Commission Expires:

4/14/2001



AFTER RECORDING
MAIL TO: →

This Document Prepared by:
BRUCE F. HOFFMAN
150 N. Wacker Drive, Suite 1100
Chicago, Illinois 60606
312/726-0001

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Property of Cook County Clerk's Office

312-378-0001
Chicago, Illinois 60602
120 N. Water Street, Suite 1100
BRUCE F. HOFFMAN
This Document Prepared by:

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EXCULPATORY CLAUSE FOR CHICAGO TITLE LAND TRUST COMPANY, AS TRUSTEE UNDER TRUST #1085164 ATTACHED TO AND MADE A PART OF THE SUBORDINATION AND ATTORNMENMENT AGREEMENT DATED 10-28-97, TO WHITE HEN PANTRY, INC.

It is expressly understood and agreed by and between the parties hereto, anything to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against CHICAGO TITLE LAND TRUST COMPANY, on account of this instrument or on account of any warranty, indemnity, representation, covenant or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

Date:

CHICAGO TITLE LAND TRUST COMPANY, as Trustee
Under Trust No. 1085164

By: Sheila Davenport
Assistant Vice President

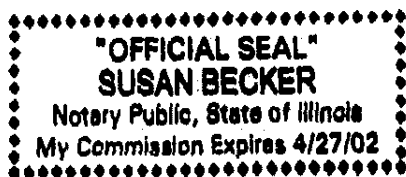
Attest:
By: Susan Becker
Assistant Secretary



State of Illinois
County of Cook SS.

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that the above named Assistant Vice President and Assistant Secretary of CHICAGO TITLE LAND TRUST COMPANY, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice President and 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 Company for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that the said Assistant Secretary, as custodian of the corporate seal of said Company, caused the corporate seal of said Company to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said Company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this JUNE 18, 1998



Susan Becker

NOTARY PUBLIC

Exculpatory Clause w/Notary

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