

NON-DISTURBANCE AGREEMENT



99632465

THIS AGREEMENT is made as of this 29th day of June, 1999 by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee under Trust Agreement dated December 19, 1979 and known as Trust No. 48662-08 ("**Landlord**") and PENINSULA CHICAGO, LLC, a Delaware limited liability company ("**Subtenant**").

WITNESSETH:

A. Landlord is the owner of certain real property located in Chicago, Illinois legally described in Exhibit A attached hereto (the "**Property**").

B. Landlord has leased the Property to American National Bank and Trust Company, not personally but solely as Trustee pursuant to the terms of that certain Trust Agreement dated as of April 20, 1994, and known as Trust No. 118199-01 ("**Trustee**") pursuant to the terms of that certain Agreement to Lease, dated as of January 1, 1996, between Landlord and Trustee (as the same may from time to time be amended, modified, extended, renewed, or restated, the "**Master Lease**").

C. Under the terms of a certain Lease (as the same may from time to time be amended, modified, extended, renewed, or restated from time to time, the "**Sublease**") dated as of June 29, 1999, Trustee has leased to Subtenant certain space as more particularly described in the Sublease.

D. The parties hereto desire to establish certain rights of non-disturbance for the benefit of Subtenant under the Sublease, and further to define the terms, covenants and conditions precedent for such rights.

NOW, THEREFORE, in consideration of the respective covenants made herein and of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby mutually covenanted and agreed as follows:

I. Attornment. In the event the Master Lease is terminated or expires in accordance with its terms prior to the expiration date of the Sublease, Subtenant shall attorn to Landlord and recognize Landlord as its Landlord under the Sublease, and Landlord shall recognize and accept Subtenant as its tenant thereunder, whereupon the Sublease shall continue, without further agreement, in full force and effect as a direct lease between Landlord and Subtenant for the full term thereof upon the same terms, covenants and conditions as therein provided, including, without limitation, Subtenant thereafter making all rent payments directly to Landlord and Landlord shall thereafter, upon the date that Landlord first takes possession of the Property, assume and perform all of Trustee's obligations, as Landlord under the Sublease, with the same force and effect as if Landlord was originally named therein as the Landlord.

II. Non-Disturbance. In the event the Master Lease is terminated or expires in accordance with its terms prior to the expiration date of the Sublease, and so long as Subtenant is

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and
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not in default under any of the terms, covenants, and conditions of the Sublease or the terms of this Agreement, which default continues uncured beyond any grace or cure period, Landlord agrees that Subtenant shall have the right to remain in possession of the premises demised under the Sublease and that no such termination or expiration of the Master Lease shall divest, impair, modify, abrogate or otherwise adversely affect any interests or rights whatsoever of Subtenant under the Sublease.

III. Limitation of Liability. Notwithstanding anything to the contrary contained herein or in the Sublease, in the event the Master Lease is terminated or expires in accordance with its terms prior to the expiration date of the Sublease, Landlord, and its successors and assigns, shall in no event and to no extent:

- (a) be liable to Subtenant for any past act, omission or default on the part of the original or any other prior landlord under the Sublease and Subtenant shall have no right to assert the same or any damages arising therefrom as an offset, defense or deficiency against Landlord or its successors or assigns; or
- (b) be liable to Subtenant for any prepayment of rent or deposit, rental security or any other sums deposited with the original or any other prior landlord under the lease and not delivered to Landlord.

IV. Further Documents. The foregoing provisions shall be self-operative and effective without the execution of any further documents by Landlord or Subtenant. Landlord and Subtenant each agree, however, to execute and deliver to the other party hereto such other documents as either shall reasonably request in order to effectuate said provisions.

V. Notice and Opportunity to Cure. Landlord hereby agrees at the time the same is served upon Trustee, to give to Subtenant, and to any leasehold mortgagee of subtenant whose name and address has been provided to Landlord, a copy of each notice of default which it gives to Trustee pursuant to the Master Lease. Subtenant and any such leasehold mortgagee shall have the right, but not the obligation, to cure any such default and Landlord shall accept such performance by Subtenant and any such leasehold mortgagee as if performed by Trustee.

VI. Notice. Any notice, demand, request or other communication required or permitted to be given under this Agreement shall be deemed given (a) when personally delivered, (b) one (1) business day after deposit with Federal Express or other reputable courier for overnight delivery, charges prepaid, or (c) if mailed, upon the second (2nd) business day after the day on which it is deposited in United States Registered or Certified mail, postage prepaid, return receipt requested, in each case addressed as follows:

If to Landlord:

UNOFFICIAL COPY

AMERICAN NATIONAL BANK AND TRUST COMPANY OF
CHICAGO

33 North LaSalle Street
Chicago, Illinois 60690
Attention: Land Trust Department
Trust No. 48662-08

99632465

with a copy to:

Mr. Michael Schulson
LUNAN CORPORATION
412 North Orleans
Suite 402
Chicago, Illinois 60610

and to:

RUDNICK & WOLFE
203 North LaSalle Street
Suite 1800
Chicago, IL 60601
Attention: David Glickstein, Esq.

If to Subtenant:

PENINSULA CHICAGO LLC
c/o The Hong Kong and Shanghai Hotels, Limited
2 Ice House Street, Central
Hong Kong
Attention: Chief Financial Officer

with a copy to:

FULBRIGHT & JAWORSKI, L.L.C.
The Hong Kong Club Building
3A Chater Road, 19th Floor
Hong Kong
Attention: Albert Theodore Powers, Esq.

and to:

FULBRIGHT & JAWORSKI, L.L.C.
666 Fifth Avenue
New York, NY 10103
Attention: Douglas J. Danzig, Esq.

or at such other address as the person to be served notice may have furnished in writing to the other party hereto.

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VII. Binding Effect. The terms, covenants and conditions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective heirs, executors, administrators, successors and assigns.

VIII. Modification. This Agreement may not be modified orally or in a manner other than by an agreement signed by the parties hereto or their respective successors in interest.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

WITNESS the due execution of this instrument by the parties hereto the day and year above written.


LANDLORD:

99632465

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee under Trust Agreement dated December 19, 1979 and known as Trust No. 48662-08

By:

Its

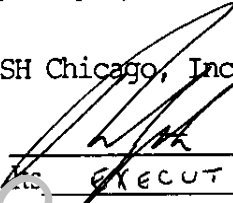

Trust Officer

TENANT:

PENINSULA CHICAGO LLC, a Delaware limited liability company

By: HSH Chicago, Inc., its member

By:


EXECUTIVE VP



This instrument was prepared by
And after recordation return to:

Douglas J. Danzig, Esq.
Fulbright & Jaworski, LLP
666 Fifth Avenue
New York, NY 10103

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

UNOFFICIAL COPY

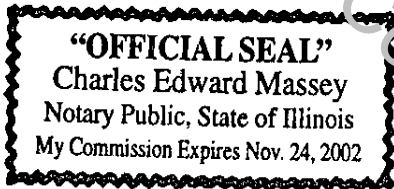
99632465

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, _____, a Notary Public in and for the County and State
aforesaid, do hereby certify that **MARK DEGRAZIA**, the
TRUST OFFICER of American National Bank and Trust Company of Chicago is

personally known to me to be the same person whose name is subscribed to the foregoing
instrument appeared before me this day in person and acknowledged that he signed and delivered
said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this **JUN 25 1999** day of _____, 1999.



Notary Public

Charles Edward Massey

My commission expires: _____

Clerk's Office

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STATE OF ILLINOIS)
 ILLINOIS) ss
COUNTY OF COOK)

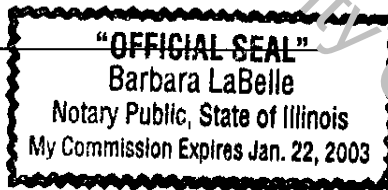
I, BARBARA La BELLE, a Notary Public in and for the County and State
aforesaid, do hereby certify that RODNEY L. SMYTH, the
EXECUTIVE VP of HSH CHICAGO, INC. is
personally known to me to be the same person whose name is subscribed to the foregoing
instrument appeared before me this day in person and acknowledged that he signed and delivered
said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 15TH day of JUNE, 1999.

Notary Public

Barbara La Belle

My commission expires: _____



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EXHIBIT A

Legal Description of the Land

99632465

LOT 8 IN BLOCK 53 IN BUTLER'S SUBDIVISION OF THE NORTHEAST CORNER OF BLOCK 53
IN KINZIES ADDITION TO CHICAGO, IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF
SECTION 10, TOWNSHIP 33 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN,
IN COOK COUNTY, ILLINOIS

TAX NUMBERS:

17-10-102-003
17-10-102-004
17-10-102-005
17-10-102-006
17-10-102-007
17-10-102-008
17-10-102-009
17-10-102-010
17-10-102-011
17-10-102-012
17-10-102-013
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17-10-102-015
17-10-102-016
17-10-102-021
17-10-102-022
17-10-102-023
17-10-102-024
17-10-102-028
17-10-102-029
17-10-102-030
17-10-102-031
17-10-102-032

730 N. Michigan Ave
Chgo. Il. 60611

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