

UNOFFICIAL COPY

PREPARED BY AND
WHEN RECORDED RETURN TO:
BLOCKBUSTER VIDEOS, INC.
8320 S. MADISON
BURR RIDGE, IL 60521
ATTN: AMANDA EPTING
LEASE ADMINISTRATION
(630) 654-0004

99783690

7095/0068 28 001 Page 1 of 5
1999-08-17 10:07:27
Cook County Recorder 55.50

DEMISED PREMISES:
BLOCKBUSTER VIDEO #17393
Clybourn & Division
Chicago, IL

Pin #17-04-143-047

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made and entered into this the 13th day of May 1999, by and between BLOCKBUSTER INC. ("Tenant") and LASALLE NATIONAL BANK, a national banking association ("Lender") and MELK DEVELOPMENT/MCL SCOTT SEDGEWICK L.P. an Illinois Limited Partnership ("Landlord").

RECITALS:

WHEREAS, Landlord executed a Lease dated as of January 14, 1999, in favor of Tenant, a memorandum of which may be recorded simultaneously herewith, covering a certain Demised Premises therein described located on a parcel of real estate, a legal description of which is attached hereto and incorporated herein by this reference as Exhibit "A-1" (said parcel of real estate and the Demised Premises being sometimes collectively referred to herein as the "Property"); and

WHEREAS, Landlord has executed a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-Z Financing Statement (the "Mortgage") dated July 25, 1996 and recorded on July 29, 1996, of the County Records of Cook County, State of Illinois as Document Number 96578656 in favor of Lender, payable upon the terms and conditions described therein; and

WHEREAS, it is a condition to said loan that said Mortgage shall unconditionally be and remain at all times a lien or charge upon the Property, prior and superior to the Lease and to the leasehold estate created thereby; and

WHEREAS, the parties hereto desire to assure Tenant's possession and control of the Property under the Lease upon the terms and conditions therein contained;

NOW, THEREFORE, for and in consideration of the mutual covenants and premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed by the parties hereto, the parties hereto do hereby agree as follows:

AGREEMENT:

1. The Lease is and shall be subject and subordinate to the Mortgage, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all future advances made thereunder.

2. Should Lender become the owner of the Property, or should the Property be sold by reason of foreclosure, or other proceedings brought to enforce the Mortgage which encumbers the Property, or should the Property be transferred by deed in lieu of foreclosure, or should any

CATCH
Lot 7

ORIGINAL

*SN
2-1
2/4
JM*

UNOFFICIAL COPY

99783690

portion of the Property be sold under a trustee's sale, the Lease shall continue in full force and effect as a direct lease between the then owner of the Property covered by the Mortgage and Tenant, upon, and subject to, all of the terms, covenants and conditions of this Lease for the balance of the term thereof remaining, including any extensions therein provided. Tenant does hereby agree to attorn to Lender or to any such owner as its landlord, and Lender hereby agrees that it will accept such attornment.

3. Notwithstanding any other provision of this Agreement, Lender shall not be (a) liable for any default of any landlord under the Lease (including Landlord), except that Lender agrees to cure any default of Landlord that is continuing as of the date Lender forecloses the Property within thirty (30) days from the date Tenant delivers written notice to Lender of such continuing default, unless such default is of such a nature to reasonably require more than thirty (30) days to cure and then Lender shall be permitted such additional time as is reasonably necessary to effect such cure, provided Lender diligently and continuously proceeds to cure such default; (b) subject to any offsets or defenses which have accrued prior to the date of foreclosure, unless Tenant shall have delivered to Lender written notice of the default which gave rise to such offset or defense and permitted Lender the same right to cure such default as permitted Landlord under the Lease; (c) bound by any Rent that Tenant may have paid under the Lease more than one month in advance; (d) bound by any amendment or modification of the lease hereafter made without Lender's prior written consent which reduces the term, increases the obligations of Landlord or reduces rents; (e) responsible for the return of any security deposit delivered to Landlord under the Lease and not subsequently received by Lender.

4. If Lender sends written notice to Tenant to direct its Rent payments under the Lease to Lender instead of Landlord, then Tenant agrees to follow the instructions set forth in such written instructions and deliver Rent payments to Lender; however, Landlord and Lender agree that Tenant shall be credited under the Lease for any Rent payments sent to Lender pursuant to such written notice.

5. Notices and demands required, or permitted, to be sent to those listed hereunder shall be sent by certified mail, return receipt requested, postage prepared, or by Airborne Express or other reputable overnight courier service and shall be deemed to have been delivered on the date the same is (i) postmarked, if sent by certified mail, or (ii) deposited, if sent by Airborne Express or such other reputable overnight courier service, but shall not be deemed received until (a) one (1) business day following deposit with Airborne Express or other reputable overnight courier service, or (b) three (3) days following deposit in the United States Mail if sent by certified mail, to address shown below:

TENANT: Blockbuster, Inc. #17393
The Renaissance Tower
1201 Elm Street
Dallas, TX 75270
Attention: Real Estate/Legal Dept.

with a copy to: Blockbuster, Inc. #17393
8320 South Madison Street
Burr Ridge, IL 60521
Attention: Amanda Epting

LANDLORD: Melk Development/MCL Scott Sedgewick L.P.
C/o MCL Companies
455 East Illinois, Suite 565
Chicago, Illinois 60611

LENDER: LaSalle National Bank
135 S. LaSalle Street
Chicago, Illinois 60603
Attention: Commercial Real Estate

6. Said Mortgage shall not cover or encumber and shall not be construed as subjecting in any manner to the lien thereof any of Tenant's improvements or trade fixtures, furniture, equipment or other personal property at any time placed or installed in the Demised Premises. In

UNOFFICIAL COPY

30783690

the event the Property or any part thereof shall be taken for public purposes by condemnation or transfer in lieu thereof or the same are damaged or destroyed such that the cost reasonably estimated to repair or rebuild the Shopping Center is \$1,000,000.00 or less, the rights of the parties to any condemnation award or insurance proceeds shall be determined and controlled by the applicable provisions of the Lease. In the event such estimated cost to repair or rebuild the Shopping Center exceeds \$1,000,000.00, then the rights of the parties to any condemnation award or insurance proceeds shall be determined and controlled by the applicable provisions of the Mortgage.

7. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors in interest, heirs and assigns and any subsequent owner of the Property secured by the Mortgage.

8. Should any action or proceeding be commenced to enforce any of the provisions of this Agreement or in connection with its meaning, the prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorney's fees.

9. Tenant shall not be joined as a party/defendant in any action or proceeding which may be instituted or taken by reason or under any default by Landlord in the performance of the terms, covenants, conditions and agreements set forth in the Mortgage.

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

LENDER:

LASALLE NATIONAL BANK,
a national banking association

By: 

Name: Andrew B. Johnson

Title: Branch Vice President

TENANT:

BLOCKBUSTER INC, a Delaware corporation

By: 

Name: Mark Gilman

Title: Executive Vice President - Development

2/12/98

LANDLORD:

MELK DEVELOPMENT/MCL SCOTT SEDGEWICK
L.P., an Illinois Limited Partnership

By: 

Name: Daniel E. McKeon

Title: President

UNOFFICIAL COPY

99783690

[Acknowledgement of Lender]

STATE OF Illinois
COUNTY OF Cook

The foregoing instrument was acknowledged before me this 25 day of February, 1999 by Glyn B. Josephson, 1st Vice President of La Salle National Bank corporation on behalf of the corporation. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.



Rae Rivero
Signature of Notary

Rae Rivero
(Name of Notary Typed, Printed or Stamped)

[Acknowledgement By Tenant]

STATE OF TEXAS
COUNTY OF DALLAS

The foregoing instrument was acknowledged before me this 13th day of May, 1999 by MARK GILMAN, EXECUTED VICE PRESIDENT - DEVELOPMENT of BLOCKBUSTER INC., on behalf of the corporation. He is personally known to me and did not take an oath.



USA McCore
Signature of Notary

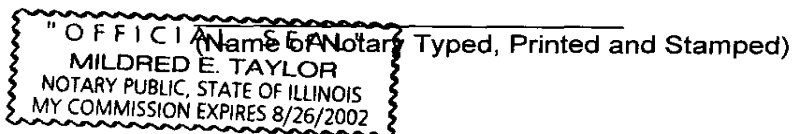
(Name of Notary Typed, Printed or Stamped)

[Acknowledgement of Landlord]

STATE OF Illinois
COUNTY OF Cook

The foregoing instrument was acknowledged before me this 20 day of January, 1999 by Mildred E. Taylor, President of Milk Development, Inc. She is personally known to me or has produced _____ as identification and did/did not take an oath.

Mildred E. Taylor
Signature of Notary



UNOFFICIAL COPY

99783690

EXHIBIT "A-1"

LEGAL DESCRIPTION OF THE SHOPPING CENTER

PARCEL 1:

LOT 10, EXCEPT THE NORTH 30 FEET AND EXCEPT THE EAST 100 FEET IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE WEST 1/2 OF THE NORTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

SUB-LOTS 1, 2 AND 3 IN SUBDIVISION OF THE EAST 100 FEET OF THE SOUTH 78 FEET OF LOT 10, IN BUTTERFIELD'S ADDITION TO CHICAGO, AFORESAID, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

SUB-LOTS 1 TO 9, BOTH INCLUSIVE IN ASSESSOR'S DIVISION OF LOTS 10, 11, 12 AND 13 IN BUTTERFIELD'S ADDITION TO CHICAGO, AFORESAID, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 16 (EXCEPT THAT PART WHICH LIES NORTH OF THE SOUTH LINE OF THE EAST AND THE WEST PUBLIC ALLEY EXTENDED WEST TO THE NORTHWESTERLY LINE OF SAID LOT 16, SAID ALLEY BEING FIRST ALLEY SOUTH OF SCOTT STREET AND WEST OF SEDGWICK STREET AND BEING ALLEY DEDICATED IN THE SUBDIVISION OF LOT 9 AND THE NORTH 30 FEET OF LOT 10 IN SAID SUBDIVISION) IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE WEST 1/2 OF THE NORTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

LOT 1 IN THE SUBDIVISION OF LOTS 14 AND 15 IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE WEST 1/2 OF THE NORTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

LOTS 1 TO 5 IN THE SUBDIVISION OF LOTS 2 AND 3 IN THE SUBDIVISION OF LOTS 14 AND 15 IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE WEST 1/2 OF THE NORTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 7:

LOT 4 IN THE SUBDIVISION OF LOTS 14 AND 15 IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE WEST 1/2 OF THE NORTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.