

UNOFFICIAL COPY

THIS DOCUMENT WAS PREPARED BY,
AND AFTER RECORDING, RETURN TO:

Gary K. Fordyce, Esq.
ABN AMRO North America, Inc.
135 South La Salle Street, Suite 925
Chicago, Illinois 60603

99951295

8211/0243 27 001 Page 1 of 9
1999-10-07 14:25:37
Cook County Recorder 37.00



PERMANENT TAX INDEX NUMBERS:

12-19-400-157-0000
12-19-400-158-0000

PROPERTY ADDRESS:

11410 Melrose Street
Franklin Park, Illinois 60131

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT is made and entered into as of March 30, 1999 (the "Agreement"), by and among AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, whose address is 120 South La Salle Street, Lower Level Chicago, Illinois 60690, not personally, but solely as Successor Trustee (the "Trustee") under a Trust Agreement dated July 3, 1975 and known as Trust No. 5810 (the "Trust Agreement"), and WAYNE PATRICK FILOSA and GUISEPPE MARCHESE (collectively, the "Beneficiary"; the Trustee and the Beneficiary being collectively referred to herein as the "Landlord"), whose address is c/o Allrite Sheet Metal, Inc., 2950 North Commerce Street, Franklin Park, Illinois 60131, SOKO AMERICA CORPORATION, an Illinois corporation (the "Tenant"), whose address is 113 Bright Ridge, Schaumburg, Illinois 60194, and LASALLE BANK NATIONAL ASSOCIATION, a national banking association (the "Assignee"), whose address is 4747 West Irving Park Road, Chicago, Illinois 60641.

RECITALS

A. The Tenant is the tenant under that certain Industrial Building Lease dated April 24, 1996 between the Beneficiary, doing business as F & M Building Partnership, as lessor, and the Tenant, as lessee (along with any and all extensions, modifications, replacements and renewals thereof being collectively referred to herein as the "Lease"), pertaining to and covering that certain real estate which is legally described on Exhibit "A" attached hereto and the buildings and improvements located thereon (the "Property").

BOX 333-CT1

6 502 12
7802 778 - 02 208

9

UNOFFICIAL COPY

B. The Beneficiary is the owner of one hundred percent (100%) of the beneficial interest and power of direction in and to the Trust Agreement.

C. The Lender is presently contemplating the making of a loan (the "Loan") to the Trustee secured by the Property and this Agreement is entered into by the parties hereto with the intention of having the Lender rely thereon in making and disbursing the Loan.

WARRANTIES, COVENANTS and AGREEMENTS

1. The Landlord, the Tenant and the Lender hereby agree and acknowledge that the Lease, and all of the Landlord's and the Tenant's respective rights and interests thereunder, shall be, are hereby made and shall remain completely subject and subordinate to that certain Mortgage, Security Agreement and Financing Statement dated as of March 30, 1999, executed by the Trustee to and for the benefit of the Bank and joined in by the Beneficiary, and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on ~~April~~ ^{October} 7, 1999 as Document No. 99 951293, and all modifications, replacements and amendments thereof (collectively, the "Mortgage"), and all other documents, including that certain Assignment of Rents and Leases dated as of March 30, 1999, jointly and severally executed by the Landlord to and for the benefit of the Lender and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on ~~April~~ ^{October} 7, 1999 as Document No. 99 951294, and all modifications, replacements and amendments thereof (collectively, the "Assignment of Rents"), now or hereafter securing the Loan (the Mortgage, the Assignment of Rents and all other documents being collectively referred to herein as the "Loan Documents"), to the same extent as if the Loan Documents had been executed, delivered and recorded prior to execution of the Lease.

2. The Tenant agrees that it will not, after the date hereof, subordinate the Lease to any mortgage, deed of trust or other lien encumbering the Property, other than the Loan Documents, without first obtaining the written consent of the Lender.

3. The Landlord and the Tenant hereby acknowledge and agree that the Lender shall have the right at any time to elect, by a notice in writing given to the Landlord and the Tenant, to make the Lease superior to the Loan Documents, and, upon the giving of such notice to the Landlord and the Tenant, the Lease shall be deemed to be prior and superior to such Loan Documents and the interest thereby created and evidenced.

4. The Lease shall not, after the date hereof, be terminated, surrendered, renewed (except as specifically permitted by the Lease), or modified without first obtaining the prior written consent of the Lender, and rent shall not be paid more than one month in advance.

5. The Tenant hereby acknowledges that the interest of the Landlord under the Lease shall be assigned to the Lender solely as security for the Loan, and the Lender (a) shall not be liable for any claims for damages or setoffs arising out of the Landlord's interest in the Lease or the Property, for the return of any security deposit unless it has specifically been received by the Lender, for any act committed by the Landlord or any breach or failure to perform by the Landlord,

UNOFFICIAL COPY

and (b) shall not be obligated by reason of the Mortgage or the Assignment of Rents or the exercise of any rights granted therein to perform any obligation of the Landlord under the Lease.

6. In the event of any default by the Landlord under the Lease, the Tenant shall promptly give written notice of such default to the Lender and, in such event and prior to the exercise by the Tenant of any of its rights or remedies under the Lease or otherwise with respect to such default, the Lender shall have the right, but not the obligation, to cure such default within thirty (30) days following the receipt of such notice (except that if the Lender cannot reasonably cure such default within such thirty day time period, such period shall be extended for a reasonable additional period of time, provided that the Lender commences to take action in order to cure such default within such additional period and proceeds diligently thereafter to effect such cure), and, if the Lender does cure such default, then the Lease shall remain in full force and effect.

7. Notwithstanding the subordination of the Lease as aforesaid, in the event that the Lender or any other party succeeds to the rights of the Landlord under the Lease (the "Successor Landlord"), whether through foreclosure, the acceptance of a deed in lieu of foreclosure or any possession, surrender, assignment, judicial action or any other action taken by the Lender, then upon the written request by the Lender to do so, the Tenant agrees that: (a) the Tenant shall attorn to, and be liable to and recognize the Successor Landlord as the lessor under the Lease for the balance of the term of the Lease upon and subject to all the terms and conditions of this Agreement and of the Lease; (b) thereafter, the Tenant shall make payments of rent (minimum, basic, percentage, additional or otherwise) to the Successor Landlord, and otherwise perform all of the Tenant's obligations set forth in the Lease; (c) the Successor Landlord shall be responsible only for the performance of those of the Landlord's obligations to be performed during the period of the Successor Landlord's ownership; and (d) the Tenant shall look solely to the interest of the Successor Landlord in the Property for recovery of any judgment, it being specifically agreed that neither the Successor Landlord, nor the Lender, nor anyone claiming under the Successor Landlord or the Lender, shall ever be personally liable for the lessor's obligations under the Lease or any such judgment in connection therewith. So long as the Tenant shall pay, when due, such rent and impositions and otherwise perform such other tenant obligations as set forth in the Lease, (i) the Tenant shall not be joined as an adverse party defendant in any action or proceeding which may be instituted or commenced by the Lender to foreclose or enforce the Mortgage; (ii) the Tenant shall not be evicted from the Property, nor shall any of the Tenant's rights to use and possession under the Lease be affected in any way by reason of the subordination or any modification of or default under the Mortgage; and (iii) the Tenant's leasehold estate under the Lease shall not be terminated or disturbed during the term of the Lease by reason of any default under the Mortgage.

8. The Tenant agrees that on the written request of the Lender made from time to time, the Tenant will promptly execute and deliver to the Lender an estoppel certificate addressing such matters pertaining to the Lease as the Lender may request.

9. Whenever any of the parties hereto desires to give any notice to any of the others under this Agreement, it shall be sufficient for all purposes if such notice is hand delivered, sent by overnight courier or registered or certified United States mail, postage prepaid, return receipt requested, addressed to the addresses set forth above.

UNOFFICIAL COPY

10. This Agreement shall inure to the benefit of and shall be binding upon the Tenant, the Landlord, the Lender and their respective heirs, personal representatives, successors and assigns. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any of the other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not contained herein. This Agreement shall be governed by and construed according to the laws of the State of Illinois.

11. Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage, except as specifically set forth herein.

12. This instrument is executed by American National Bank and Trust Company of Chicago, not personally, but as Trustee, as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by American National Bank and Trust Company of Chicago are undertaken by it solely as Trustee, as aforesaid, and not individually and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against American National Bank and Trust Company of Chicago by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this Agreement.

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have caused this Subordination, Non-Disturbance and Attornment Agreement to be duly executed as of the date set forth above.

Landlord:

AMERICAN NATIONAL BANK AND TRUST
COMPANY OF CHICAGO, not personally, but
solely as Successor Trustee of Trust No. 5810

By: 

Name: Dennis John Carrara

Title: Assistant Vice President


WAYNE PATRICK FILOSA


GIUSEPPE MARCHESE

Tenant:

SOKO AMERICA CORPORATION,
an Illinois corporation

ATTEST:

By: _____
Name: _____
Title: _____

By: 

Name: Wayne P. Filosa

Title: President

Lender:

LASALLE BANK NATIONAL ASSOCIATION,
a national banking association

By: 

Name: ~~Patrick Stoltz~~ Thomas W. Ryan

Title: ~~Vice President~~ First Vice President

GKF:jh/March 26, 1999/101572

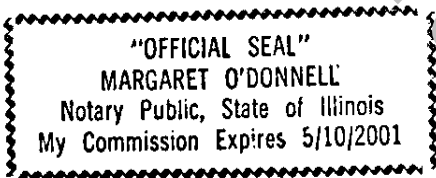
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Dennis John Carrara, the Assistant Vice President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, as successor trustee as aforesaid, who are personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Assistant Vice President, he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said banking association, as successor trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 31st day of March, 1999.

Margaret O'Donnell
Notary Public



My Commission Expires:

5-10-01

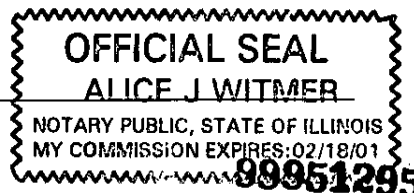
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that by WAYNE PATRICK FILOSA, who 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 the 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 30th day of March, 1999.

Alice J. Witmer
Notary Public

My Commission Expires:



UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that by GUISEPPE MARCHESE, who 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 the 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 30th day of March, 1999.

Alice J. Witmer
Notary Public

My Commission Expires:



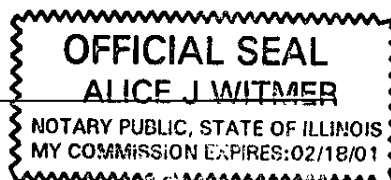
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Wayne P. Filosa the Partner, and _____, the _____, of SOKO AMERICA CORPORATION, an Illinois corporation, who are 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 as such Partner and _____, they signed and delivered the said instrument as their own free and voluntary act, as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 30th day of March, 1999.

Alice J. Witmer
Notary Public

My Commission Expires:



UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

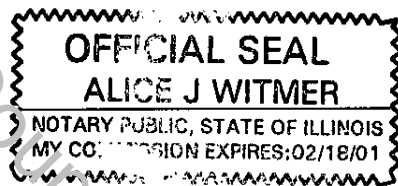
Thomas W. Ryan

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that PATRICK STOLTZ, a ^{First}Vice President, of LASALLE BANK NATIONAL ASSOCIATION, a national banking association, who 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 severally acknowledged that as such ^{First}Vice President, he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said banking association, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 30th day of March, 1999.

Alice J. Witmer
Notary Public

My Commission Expires:



GKF:jh
March 26, 1999
101572

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

THE FOLLOWING DESCRIBED TRACT OF LAND (EXCEPTING THEREFROM THE EAST 133.50 FEET AS MEASURED ON THE SOUTH LINE THEREOF):

THAT PART OF THE SOUTH EAST 1/4 OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF MELROSE STREET, BEING A LINE 290 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SOUTH EAST 1/4, 1,254.15 FEET (MEASURED ALONG SAID PARALLEL LINE) WEST OF THE EAST LINE OF SAID SOUTH EAST 1/4; THENCE WEST ALONG SAID NORTH LINE 252.50 FEET; THENCE NORTH AT RIGHT ANGLES TO SAID NORTH LINE 277.02 FEET TO THE SOUTHERLY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY RIGHT OF WAY; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE 257.01 FEET; THENCE SOUTH ALONG A LINE PERPENDICULAR TO SAID NORTH LINE OF MELROSE STREET A DISTANCE OF 325.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS, EXCEPTING FROM THE ABOVE LAND THE FOLLOWING DESCRIBED PART OF THE SOUTH EAST 1/4 OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTH LINE OF MELROSE STREET, BEING A LINE 290 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTH EAST 1/4, 1,387.65 FEET (AS MEASURED ALONG SAID PARALLEL LINE) WEST OF THE EAST LINE OF SAID SOUTH EAST 1/4; THENCE NORTH AT RIGHT ANGLES TO SAID NORTH LINE 274.22 FEET; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 15.00 FEET TO THE POINT OF BEGINNING OF LAND HEREIN DESCRIBED; THENCE CONTINUING WEST ALONG SAID LINE 9.00 FEET; THENCE SOUTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 7.00 FEET; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 7.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 7.00 FEET; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 9.00 FEET; THENCE SOUTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 65.00 FEET; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 25.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 65.00 FEET TO THE POINT OF BEGINNING, ALL THAT PART WHICH LIES ABOVE A PLANE 25.00 FEET ABOVE THE FLOOR PLANE OF A BRICK BUILDING (AS MEASURED AT THE NORTHWEST CORNER OF SAID BUILDING, BEING 16.5 FEET EAST AND 18.2 FEET SOUTH OF THE NORTHEAST CORNER OF LAND HEREIN DESCRIBED) SAID FLOOR HAVING AN ELEVATION OF 653.64 FEET WITH RESPECT TO THE VILLAGE OF FRANKLIN PARK DATUM, ALL IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS:

11410 Melrose Street
Franklin Park, Illinois 60131

PERMANENT TAX ID NUMBERS:

12-19-400-157-0000
12-19-400-158-0000

99951295