



99060370

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "Agreement") is made as of this 17th day of December, 1998, between LASALLE NATIONAL BANK, a national banking association ("Senior Lender") and CENTERPOINT REALTY SERVICES CORPORATION, an Illinois corporation ("Subordinated Lender").

Recitals

A. Senior Lender has made a loan to TDC NILES, L.L.C., an Illinois limited liability company ("Borrower"), in the principal amount of \$2,845,000 (the "Loan").

B. The Loan is evidenced by a Note of even date herewith in the principal amount of \$2,845,000 (the "Senior Note").

C. The Loan is secured by, inter alia:

(i) a Mortgage and Security Agreement of even date herewith (the "Senior Mortgage"), to be recorded with the Recorder of Deeds of Cook County, Illinois (the "Recorder") encumbering the land legally described on Exhibit A attached hereto (the "Land") and the improvements thereon;

as document 99060364

(ii) an Assignment of Rents and Leases of even date herewith, to be recorded with the Recorder; and

(iii) such other documents and instruments as may evidence, govern, guaranty or secure the Loan, including the Loan Documents.

D. The Senior Note, Senior Mortgage and all of the foregoing described documents and instruments, together with all other documents and instruments evidencing and securing the Loan, are hereinafter collectively referred to as the "Senior Loan Documents". All persons and entities now or hereafter obligated under the Senior Loan Documents, including Borrower and Guarantor, are referred to individually as "Obligor" and collectively as "Obligors."

E. Subordinated Lender is the owner and holder of a certain Note (the "Subordinated Note") dated of even date herewith, in the original principal amount of \$13,331,663 made by Borrower payable to the order of Subordinated Lender.

F. Subordinated Lender is also the owner and holder of a certain Mortgage (the "Subordinated Mortgage") dated of even date herewith, to be recorded with the Recorder. All documents evidencing and securing the Subordinated Note are hereinafter collectively referred to as the "Subordinated Loan Documents."

as document 99060368

G. All obligations of Obligors to Senior Lender, whether now existing or hereafter arising, due or to become due (including, without limitation, principal, interest, including interest accruing after any bankruptcy or insolvency proceeding relating to any Obligor, notwithstanding

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any provision of law which might restrict the rights of Senior Lender, as against any Obligor, to collect such interest, prepayment premiums, fees, and expenses), under the Senior Note and the Senior Loan Documents are referred to collectively as the "Senior Liabilities."

H. All obligations of Obligors to Subordinated Lender, whether now existing or hereafter arising, due or to become due, under the Subordinated Note and the Subordinated Loan Documents are referred to collectively as the "Subordinated Liabilities."

I. Senior Lender has agreed to allow Borrower to enter into the Subordinated Loan Documents, and allow the Subordinated Mortgage to be a lien on the Land, on the condition that Subordinated Lender enter into this Agreement.

Agreements

In consideration of the foregoing Recitals which by this reference are made a part of this Agreement, and as an inducement to Senior Lender to make the Loan, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto represent, warrant and agree as follows:

1. Warranties of Subordinated Lender. Subordinated Lender represents and warrants that true, correct and complete copies of all documents evidencing and securing the Subordinated Liabilities have heretofore been delivered to Senior Lender.
2. Subordination of Liens. Subordinated Lender hereby agrees that the Subordinated Liabilities are and shall be subordinate to the Senior Liabilities and that the liens and security interests created by the Subordinated Loan Documents are and shall be subordinate to the liens and security interests created by the Senior Loan Documents and to any and all amendments, modifications, extensions, replacements or renewals of the Senior Loan Documents, and to any and all advances heretofore made or hereafter to be made under the Senior Loan Documents pursuant to the terms thereof.
3. Subordination of Payment. Until the Senior Liabilities have been paid in full, the payment of the Subordinated Liabilities shall be postponed and subordinated to the payment of all of the Senior Liabilities. Subordinated Lender shall accept no payments or other distributions whatsoever (including, without limitation, principal payments and distributions of casualty insurance or condemnation proceeds) on account of the Subordinated Liabilities, nor shall any property or assets of any Obligor be applied to the purchase or acquisition or retirement of any Subordinated Liabilities. Notwithstanding the foregoing, Subordinated Lender shall be entitled to receive and retain regularly scheduled payments of interest on the Subordinated Debt if paid when due (the "Permitted Payments"), provided that at the time of such payment Subordinated Lender has not received from Senior Lender written notice that an Event of Default (as defined in the Senior Loan Documents) or event which, with the passage of time, the giving of notice, or both, would constitute such an Event of Default, has occurred and is continuing.
4. Constructive Trust. In the event that Subordinated Lender receives any payment or other distribution of any kind or character from any Obligor from any source

whatsoever in respect to any of the Subordinated Liabilities other than a Permitted Payment, such payment or other distribution shall be received and shall be held by Subordinated Lender in trust for Senior Lender and promptly turned over by Subordinated Lender to Senior Lender. Subordinated Lender shall cause to be clearly inserted in all promissory notes or other instruments which at any time evidence or secure any of the Subordinated Liabilities, prior to the negotiation, assignment or transfer thereof, statements to the effect that the payment thereof is subordinated in accordance with the terms of this Agreement. Subordinated Lender shall execute such further documents or instruments and take such further action as Senior Lender may require from time to time to carry out the intent of this Agreement.

5. Notices to Subordinated Lender; Waiver by Subordinated Lender.

(a) Senior Lender shall provide written notice to Subordinated Lender of any amendment or modification of the Senior Liabilities pursuant to which the principal amount thereof is increased or the maturity date thereof is extended. In addition, Senior Lender shall send to Subordinated Lender, in accordance with Section 20 hereof, a copy of each written notice of default given by Senior Lender to Borrower pursuant to the Senior Loan Documents. Subordinated Lender shall have the same cure periods with respect to the default or defaults set forth in such notice as are provided Borrower under the Senior Loan Documents.

(b) Except as provided in subparagraph (a) above, Subordinated Lender hereby waives (i) notice of the existence, creation or nonpayment of all or any of the Senior Liabilities; (ii) notice of any amendment, modification, extension, replacement or renewal of the Senior Loan Documents, or to any advances hereafter to be made under the Senior Loan Documents; and (iii) all diligence in collection or protection of or realization upon the Senior Liabilities or any security therefor.

6. Covenants of Subordinated Lender. Subordinated Lender shall not, without the prior written consent of Senior Lender, (a) modify, amend or consent to any modification or amendment of any document evidencing or securing the Subordinated Liabilities, or (b) take any action affecting any lease of the Development in which Senior Lender claims a security interest (including, without limitation, any action to subordinate any such lease to the Subordinated Loan Documents, or any of them), and shall not, (i) commence, or join with any other creditor in commencing, any bankruptcy, reorganization or insolvency proceedings with respect to any Obligor; (ii) seek to appoint a receiver for (1) the Development, (2) any part thereof, or (3) any Obligor, (iii) seek to obtain possession of the Development, (iv) seek any accounting from Senior Lender in respect to the proceeds of Development, or (v) commence or seek to enforce any remedy under the Subordinated Loan Documents (including without limitation an action to foreclose the lien of the Subordinated Loan Documents) in the event of a default by Borrower thereunder.

7. Bankruptcy of Any Obligor. In the event of any dissolution, winding-up, liquidation, readjustment, reorganization or other similar proceedings relating to any Obligor or its creditors or property (whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership, or upon an assignment to benefit creditors, or any other

marshaling of the assets and liabilities of such Obligor, or any sale of all or substantially all of the assets of such Obligor, or otherwise), the Senior Liabilities shall first be paid in full before Subordinated Lender shall be entitled to receive and to retain any payment or distribution with respect to the Subordinated Liabilities. In order to implement the foregoing, (a) all payments and distributions of any kind or character in respect of the Subordinated Liabilities to which Subordinated Lender would be entitled if the Subordinated Liabilities were not subordinated pursuant to this Agreement shall be made directly to the Senior Lender; and (b) Subordinated Lender shall promptly file a claim or claims, in the form required in such proceedings, for the full outstanding amount of the Subordinated Liabilities, and shall take all steps reasonably requested by Senior Lender to cause said claim or claims to be approved and all payments and other distributions in respect thereof to be made directly to the Senior Lender.

8. Enforcement of Subordinated Obligations. Subordinated Lender shall have all rights to enforce any and all security given to Subordinated Lender, including, without limitation, the Subordinated Mortgage, only upon payment in full of all Senior Liabilities.

9. Notices of Default. Subordinated Lender hereby agrees to give Senior Lender, contemporaneously with the giving thereof to the applicable Obligor, copies of any notices given to an Obligor regarding any default or event of default or event which following the passage of time and failure to cure, could result in the occurrence of a default or event of default under the Subordinated Loan Documents. Subordinated Lender hereby agrees that the indebtedness evidenced, secured and guaranteed by the Subordinated Loan Documents shall not be accelerated, nor shall any remedies be pursued thereunder, without the prior written consent of Senior Lender.

10. Insurance Proceeds and Condemnation Awards. Subordinated Lender agrees that in the event of a casualty to the buildings or improvements constructed on the Land or a condemnation or taking under a power of eminent domain of the Land, the buildings or improvements thereon, or a threat of such a condemnation or taking, all adjustments of insurance claims, condemnation claims and settlements in anticipation of such a condemnation or taking shall be prosecuted, at Senior Lender's election, by Senior Lender and all payments and settlements of insurance claims or condemnation awards or payments in anticipation of condemnation or a taking shall be paid to Senior Lender, to be held and disbursed in accordance with the provisions of the Senior Loan Documents. Subordinated Lender hereby irrevocably assigns to Senior Lender all of its interests in any such claims, settlements or awards (the "Award") and irrevocably grants to Senior Lender a power of attorney, coupled with an interest, to execute any and all documents on Subordinated Lender's behalf necessary in connection with the prosecution or settlement of the Award.

11. Consent to Easements and Plats of Subdivision. At the joint direction of Borrower and Senior Lender, or at the direction of Senior Lender, Subordinated Lender hereby agrees to execute, whether or not a default or event of default may then exist under any of the Subordinated Loan Documents, any easements, plats of subdivision, nondisturbance agreements, and similar documents in connection with the construction, development, operation, maintenance or marketing of the Land, as Subordinated Lender's interests appear, and Subordinated Lender

hereby irrevocably agrees that Senior Lender may, at its sole discretion, in the name of Subordinated Lender or otherwise, execute such documents or instruments. No payment or other consideration need be paid to Subordinated Lender as a condition to its execution and delivery of any such document or instrument.

12. Acquisition of Fee Title by Senior Lender. Subordinated Lender hereby agrees that an acquisition of fee title to the Development or any part thereof by Senior Lender, its nominee, or any other person or entity through a foreclosure of the Senior Mortgage (where such foreclosure does not extinguish the security interests created by the Subordinated Loan Documents) or through a deed in lieu of foreclosure is not a "sale or disposition" and will not constitute a default or any event of default under the Subordinated Loan Documents.

13. Subrogation. Until such time as the Senior Liabilities have been paid in full, Subordinated Lender waives and releases any and all rights of subrogation which it has against the Development and which subrogation would result in Subordinated Lender obtaining a priority equal or superior to the priority of the Senior Loan Documents for any funds which Subordinated Lender may advance either to cure defaults under security instruments or pay liens encumbering the Development or otherwise protect the lien of the Subordinated Loan Documents or any of them.

14. Permitted Actions by Senior Lender. Senior Lender may, at any time and from time to time, in its sole discretion and without notice to Subordinated Lender, take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Senior Liabilities; (b) retain or obtain the primary or secondary obligation of any Obligor or Obligors with respect to any of the Senior Liabilities; (c) extend or renew the Loan for one or more periods of time (whether or not longer than the original period), alter or modify any of the Senior Liabilities, or release or compromise any obligation of any nature of any Obligor with respect to any of the Senior Liabilities; (d) release its security interest in, or surrender, release or permit any substitution or exchange for all or any part of, the property securing any of the Senior Liabilities, or extend or renew the Loan for one or more periods of time (whether or not longer than the original period) or release, compromise, alter or modify any obligation of any nature of any Obligor with respect to any such property; and (e) take any such action with respect to any collateral for the Senior Liabilities which it may be entitled to take under the Senior Loan Documents, pursuant to applicable law or otherwise.

15. Assignment. Senior Lender may, at any time and from time to time, without notice to Subordinated Lender, assign or transfer any or all of the Senior Liabilities or any interest therein; and notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Senior Liabilities shall be and remain Senior Liabilities for the purpose of this Agreement, and every immediate and successive assignee or transferee of any of the Senior Liabilities or of any interest therein shall, to the extent of the interest of such assignee or transferee in the Senior Liabilities, be entitled to the benefits of this Agreement to the same extent as if such assignee or transferee were Senior Lender; provided, however, that unless

Senior Lender shall otherwise consent in writing, Senior Lender shall have the unimpaired right, prior and superior to that of any such assignee or transferee, to enforce this Agreement for the benefit of Senior Lender as to those of the Senior Liabilities which Senior Lender has not assigned or transferred.

16. Application of Payments. All payments and distributions received by Senior Lender in respect of the Subordinated Liabilities, if any, to the extent received in or converted into cash, may be applied by the Senior Lender first to the payment of any and all expenses (including attorneys' fees and legal expenses) paid or incurred by Senior Lender in enforcing this Agreement or in endeavoring to collect or realize upon any of the Subordinated Liabilities or any security therefor, and any balance thereof shall, solely as between Subordinated Lender and Senior Lender, be applied by Senior Lender, in such order of application as Senior Lender may from time to time select, toward the payment of the Senior Liabilities remaining unpaid; but, as between any Obligor and its creditors, no such payments or distributions of any kind or character shall be deemed to be payments or distributions in respect of the Senior Liabilities; and, notwithstanding any such payments or distributions received by Senior Lender in respect of the Subordinated Liabilities and so applied by Senior Lender toward the payment of the Senior Liabilities, Subordinated Lender shall be subrogated to the then existing rights of Senior Lender, if any, in respect of the Senior Liabilities only at such time as this Agreement shall have been discontinued and Senior Lender shall have received final payment of the full amount of the Senior Liabilities.

17. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective successors and assigns whether immediate or remote.

18. No Waiver by Senior Lender. Senior Lender shall not be prejudiced in its rights under this Agreement by any act or failure to act by any Obligor or Subordinated Lender, or any non-compliance of any Obligor or Subordinated Lender with any agreement or obligation, regardless of any knowledge thereof which Senior Lender may have or with which Senior Lender may be charged; and no action of Senior Lender permitted hereunder shall in any way affect or impair the rights of Senior Lender and the obligations of Subordinated Lender under this Agreement. No delay on the part of Senior Lender in the exercise of any rights or remedies shall operate as a waiver thereof, and no single or partial exercise by Senior Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon Senior Lender except as expressly set forth in writing duly signed and delivered on behalf of Senior Lender.

19. Effect on Due on Sale Provisions. Subordinated Lender hereby waives any due on sale or due on refinancing provisions of the Subordinated Documents as they relate to the Senior Liabilities.

20. Notice. All notices, waivers, demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (a) if delivered by messenger, when

delivered, (b) if mailed, on the third business day after deposit in the United States Mail, certified or registered, postage prepaid, return receipt requested, (c) if telexed, telegraphed or telecopied, six hours after being dispatched by telex, telegram or telecopy, if such sixth hour falls on a business day within the hours of 9:00 a.m. through 5:00 p.m. of the time in effect at the place of receipt, or at 9:00 a.m. on the next business day thereafter if such sixth hour is later than 5:00 p.m., or (d) if delivered by reputable overnight express courier, freight prepaid, the next business day after delivery to such courier, in every case addressed to the party to be notified as follows:

If to Subordinated Lender:

CenterPoint Realty Services Corporation
1808 Swift Road
Oak Brook, Illinois 60523
Attn: Michael M. Mullen
Fax: (630) 586-8010

with a copy to:

Katz, Randall & Weinberg
333 West Wacker Drive, Suite 1800
Chicago, Illinois 60606
Attn: Mark S. Richmond, Esq.
Fax: (312) 807-3903

In the case of Senior Lender, to:

LaSalle National Bank
135 South LaSalle Street
12th Floor
Chicago, Illinois 60603
Attn: David Patchin
Fax: (312) 904-6691

with a copy to:

Bell, Boyd & Lloyd
70 West Madison Street
Suite 3100
Chicago, Illinois 60602
Attn: Terrence E. Budny, Esq.
Fax: (312)372-2098

or to such other address(es) or addressee(s) as any party entitled to receive notice hereunder shall designate to the others in the manner provided herein for the service of notices. Rejection or refusal to accept or inability to deliver because of changed address or because no notice of changed address was given, shall be deemed receipt.

21. No Impairment of Subordinated Liabilities. Nothing set forth in this Agreement is intended to or shall impair, as between any Obligor and Subordinated Lender, the obligations of such Obligor to pay to Subordinated Lender the Subordinated Liabilities as the same become due and payable in accordance with their terms, which obligations are absolute and unconditional.

22. Construction and Interpretation of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision of the remaining provisions of this Agreement.

23. Termination. This Agreement shall terminate upon full and final payment of any and all amounts due under the Senior Liabilities, provided that all rights of Subordinated Lender hereunder shall automatically terminate at such time as the Subordinated Liabilities have been paid in full.

The parties have executed this Agreement as of the date first above written.

SENIOR LENDER

LASALLE NATIONAL BANK, a national banking association

By: [Signature]
Name: David M. Patchin
Title: First Vice President

SUBORDINATED LENDER

CENTERPOINT REALTY SERVICES CORPORATION, an Illinois corporation

By: _____
Name: _____
Title: _____

21. No Impairment of Subordinated Liabilities. Nothing set forth in this Agreement is intended to or shall impair, as between any Obligor and Subordinated Lender, the obligations of such Obligor to pay to Subordinated Lender the Subordinated Liabilities as the same become due and payable in accordance with their terms, which obligations are absolute and unconditional.

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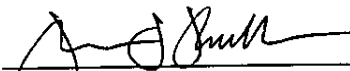
SENIOR LENDER

LASALLE NATIONAL BANK, a national banking association

By: _____
Name: _____
Title: _____

SUBORDINATED LENDER

CENTERPOINT REALTY SERVICES CORPORATION, an Illinois corporation

By: 
Name: **Michael M. Mullen**
Title: **PRESIDENT**

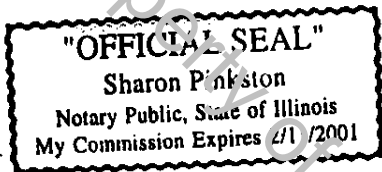
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STATE OF ILLINOIS)
)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that David M. Petcher, F.V. President of LASALLE NATIONAL BANK, a national banking association, ("Senior Lender"), 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, the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17th day of December, 1998.



Sharon Pinkston
Notary Public

My Commission Expires:
2/11/2001

PROPOSED
Cook County Clerk's Office

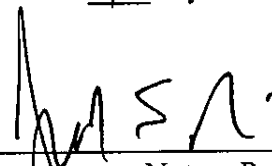
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STATE OF ILLINOIS)
 LAKE) SS.
COUNTY OF ~~COOK~~)

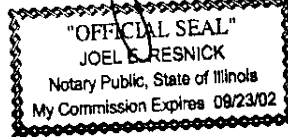
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Michael M. Molter COU of CENTERPOINT REALTY SERVICES CORPORATION, an Illinois corporation, ("Subordinated Lender"), who is personally known to me to be the same person whose name is subscribed 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, the free and voluntary act of said municipal corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17th day of December, 1998.



Notary Public

My Commission Expires:



This document prepared by, and after recording mail to:

Terrence E. Budny, Esq.
Bell, Boyd & Lloyd
Three First National Plaza
Suite 3100
Chicago, Illinois 60602-4207

Recorder's Box 136