



W2811936

E# 2811936 PG 1 OF 9
Leann H. Kilts, WEBER COUNTY RECORDER
29-Aug-16 0411 PM FEE \$26.00 DEP JC
REC FOR: FOUNDERS TITLE COMPANY - LAYTON
ELECTRONICALLY RECORDED

After Recording, Return to:
Greer, Herz & Adams, L.L.P.
Attn: Deanna Rehm
2525 South Shore Blvd, Suite 203
League City, Texas 77573

D-53202

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is entered into on August 1, 2016, between the undersigned LEVOLOR WINDOW FURNISHINGS, INC. (such party together with its successors and assigns including, without limitation, with respect to any individual, such individual's heirs, administrators, legal representatives and executors, all of the preceding being collectively herein referred to as "Tenant") and AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company (such party together with its successors and assigns including, without limitation, any purchaser at any foreclosure sale of the Mortgage, defined below, being herein collectively referred to as "Lender"), whose address is: Attn: Mortgage and Real Estate Investment Department, 2525 South Shore Blvd., Suite 207, League City, Texas 77573.

RECITALS

A. Tenant is the lessee under the lease which, together with any and all modifications and amendments thereto, is completely described on **EXHIBIT "A"** attached hereto and incorporated herein (collectively the "Lease").

B. **SAINT PAUL PROPERTIES FUND III, LLC**, (together with its successors and assigns including, without limitation, with respect to any individual, such individual's heirs, administrators, legal representatives and executors being herein collectively referred to as "Borrower"), the successor to the lessor under the Lease, has requested Lender to make to Borrower a mortgage loan secured or to be secured by a mortgage or deed of trust from Borrower to Lender (such mortgage or deed of trust collectively together with all renewals, increases, replacements, consolidations, modifications and extensions thereof, the "Mortgage"), covering the property (the "Property") described on **EXHIBIT "B"** attached hereto and incorporated herein wherein the premises covered by the Lease are located.

C. Lender is willing to make the requested mortgage loan, provided Tenant executes this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce Lender to make the requested mortgage loan, Tenant and Lender hereby agree and covenant as follows:

1. The Lease and the lien thereof are and shall at all times continue to be subject and subordinate in all respects to the lien of the Mortgage and all rights, privileges and provisions in favor of Lender thereunder. Tenant further waives all rights and claims to assert that the Lease or any provision thereof is superior to the lien or to any other provision of the Mortgage.

2. So long as Tenant is not in breach or default (beyond any period in the Lease given to Tenant to cure such breach or default) in the payment of rent or additional sums or in the performance of any of the other terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession under the Lease and Tenant's rights and privileges thereunder, or under any extensions or renewals thereof which may be effected in accordance with any option therefor contained in the Lease, shall not be diminished or interfered with by Lender acting pursuant to the Mortgage, and Tenant's occupancy shall not be disturbed by Lender during the term of the Lease or any such extensions or renewals thereof in accordance with any extension or renewal options contained in the Lease.

3. If the interests of Borrower in the Property or the Lease shall be acquired by Lender by foreclosure, by deed in lieu of foreclosure or by any other method, and Lender succeeds to the interests of Borrower under the Lease, then provided that and so long as Tenant is not in default in the payment of any sums due from Tenant under the Lease or in the performance of any other obligation of Tenant under the Lease, the Lease and the rights of Tenant thereunder shall continue in full force and effect and shall not be terminated, diminished, interfered with or disturbed except in accordance with the terms of the Lease, and except that Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, and any extensions or renewals thereof which may be effected in accordance with any option therefor contained in the Lease, with the same force and effect as if Lender were the original lessor under the Lease, and Tenant does hereby attorn to Lender as its lessor, said attornment to be effective and self-operative without the execution of any other instruments on the part of either party hereto immediately upon Lender's succeeding to the interest of Borrower under the Lease; provided, however, that unless otherwise required by applicable law, Tenant shall be under no obligation to pay rent to Lender by virtue of this Agreement until Tenant receives written notice from Lender that Lender has succeeded to the interests of Borrower under the Lease or exercised its assignment of rents. It is the intention of the parties hereto for this purpose to incorporate the Lease into this Agreement by reference for all purposes with the same force and effect as if set forth at length herein.

4. If Lender shall succeed to the interests of Borrower under the Lease, Lender shall

be bound to Tenant under all of the terms, covenants and conditions of the Lease, and Tenant shall, from and after Lender's succession to the interests of Borrower under the Lease, have the same remedies against Lender for the breach or default by Lender of any agreement contained in the Lease that Tenant might have had under the Lease against Borrower for Borrower's breach or default; provided, however, that Lender shall not be:

- (a) liable for any act or omission of any prior or succeeding landlord (including Borrower); or
- (b) liable for the return of any security deposit unless actually received by Lender;
- (c) subject to any offsets or defenses which Tenant might have against any prior or succeeding landlord (including Borrower);
- (d) bound by any rent or additional sums which Tenant might have paid for more than one month in advance to any prior or succeeding landlord (including Borrower);
- (e) bound by any agreement, amendment, or modification of the Lease or any cancellation or termination of the Lease by any prior Landlord (including Borrower), made without Lender's prior written consent; or
- (f) bound by any provision of the Lease restricting the use of other properties owned by Lender, as landlord.

5. Tenant from and after the date hereof shall send a copy of any notice or statement of a breach or default (including matters which, but for the passage of time, the giving of notice, or both, would be a breach or default) under the Lease or any notices or statement of any intention to cancel or terminate the Lease by certified mail, return receipt requested to Lender at the address shown above at the same time such notice or statement is sent to Borrower. Tenant further agrees that, in the event of any act or omission by Borrower or other occurrence which would give Tenant the right to cancel or terminate the Lease or to claim a partial or total eviction (either actual or constructive), or in the event of any other breach or default by Borrower under the terms of the Lease, Tenant shall so notify Lender by certified mail, return receipt requested, at the address above.

6. Lender shall have the option, within the timeframes established in the Lease, to cure any such act, omission, breach, or default of Borrower described in such paragraph 5, including if necessary, the commencement and prosecution of foreclosure proceedings, and Tenant agrees to accept the performance of Lender in lieu of the performance of Borrower and that the Lease shall thereby remain in full force and effect provided that Lender cures the act, omission, breach or default within the time frame provided for cure in the Lease. Tenant shall not exercise any such right to terminate or claim eviction or any other rights or remedies available at law or in equity for default or breach of the Lease or act or omission by Borrower in connection with the Lease, unless and until Tenant has notified Lender as provided in paragraph 5 hereof and until the time for Lender to commence and complete such cure has elapsed.

7. Intentionally omitted.

8. In the event the Tenant becomes the owner of the Property or any portion thereof, there shall be no merger of the leasehold interest and the fee interest and the Lease shall remain in existence and, without limiting the foregoing, Lender shall be permitted to collect rent thereunder if a breach or default occurs under the Mortgage or any indebtedness secured thereby or any assignment of leases and/or rents by and/or executed in connection with any of the preceding. Nothing in this Agreement shall be construed to permit a transfer of Tenant's interest not expressly permitted by the Lease.

9. This Agreement may not be amended or modified orally or in any other manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns including, any applicable, heirs, administrators, legal representatives and executors.

10. Tenant agrees that it will not, without the written consent of Lender, pay rent or any other sums becoming due under the Lease more than one (1) month in advance.

11. Tenant agrees that the Mortgage and the indebtedness secured thereby may be increased, rearranged, renewed, extended, consolidated and modified from time to time by agreement between Borrower and Lender, and Lender may exercise any one or more of its rights under the Mortgage from time to time at Lender's discretion, all without notice to or consent of Tenant, and this Agreement shall continue in full force and effect as to all such renewals, extensions, increases, rearrangements, consolidations and modifications and all such exercises of rights.

12. In no event shall Lender be personally liable as landlord under the Lease either by virtue of any assignment of the Lease, the exercise of any right thereunder or hereunder, the foreclosure of its lien on the Property, the acquisition of the Property or the collection of any rent or other sums under the Lease as owner or mortgagee and Tenant shall look solely to the real estate that is the subject of the Lease and to no other assets of Lender for satisfaction of any liability in respect of the Lease; but Tenant shall have reserved to it all other remedies available to it at law or in equity.

13. Except as otherwise described on Exhibit "A", the Lease has not been amended or modified and is in full force and effect as originally executed, and there are no side letters or other arrangements, whether or not constituting amendments to the Lease, for tenant inducements or otherwise.

14. Intentionally omitted.

15. Where appropriate, all references to the singular shall include the plural and vice versa and all references to any gender shall include the others.

16. This Agreement may not be waived, amended or modified except by subsequent written agreement signed by the party to be bound.

17. The words "breach" and "default" are used interchangeably in this Agreement for convenience of drafting and there is no distinction between the meanings of either word.

18. This Agreement satisfies Tenant's obligation, if any, to provide a subordination, non-disturbance and attornment agreement, or similar document, pursuant to the Lease.

19. This Agreement may be executed in multiple counterparts, each of which shall be an original instrument and which, taken together, constitutes one and the same agreement.

[Remainder of Page Intentionally Reserved]

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

LEVOLOR WINDOW FURNISHINGS, INC.

By: [Signature]
Name: Jason Van Volkenburgh
Title: Assistant Secretary and Associate General Counsel

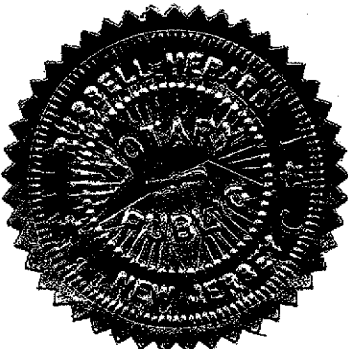
STATE OF New Jersey §
 § SS
COUNTY OF Bergen §

Before me, the undersigned authority, a Notary Public, on this day personally appeared Jason Van Volkenburgh, Assist Secretary and ASST^{CO} of Levolor Window Furnishings, Inc., a Delaware corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said corporation.

Given under my hand and notarial seal this 1st day of August, 2016.

Russell Hebard
Notary Public, State of New Jersey

Russell Hebard
Notary Public of New Jersey
My Commission Expires May 24, 2018
Commission ID #2111998



AMERICAN NATIONAL INSURANCE COMPANY,
a Texas insurance company

By: *[Signature]*
Name: Scott F. Brast *g*
Title: Senior Vice President

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

Before me, the undersigned authority, a Notary Public, on this day personally appeared Scott F. Brast, Senior Vice President of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said company.

Given under my hand and notarial seal this 8 day of August, 2016

[Signature]
Notary Public, State of Texas

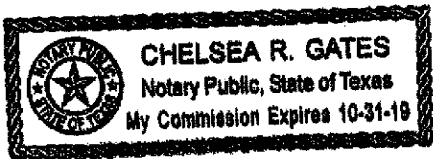


EXHIBIT "A"

TO

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

Dated: 8/2/16

The Lease referred to in the foregoing Agreement is a lease agreement made and entered into December 18, 2003, by First Industrial Development Services, Inc., as lessor, and Newell Window Furnishings, Inc., as lessee. The Lease has been amended and modified as follows:

Amendment to Lease Agreement, dated July 1, 2010 between lessee and Sandstone Shopping Center, LLC

Second Amendment to Lease Agreement, dated March 1, 2015 between lessee and Sandstone Shopping Center, LLC

EXHIBIT "B"

(PROPERTY DESCRIPTION)

All of Lot 1, WALL COMMERCIAL SUBDIVISION, according to the Official Plat thereof, recorded in the Office of the County Recorder of Weber County, State of Utah.

Tax Parcel No. 15-474-0001

Handwritten signature or initials in black ink, appearing to be 'J.S.' or similar, located to the right of the tax parcel number.

12071857v2

Exhibit "B"