

This instrument was prepared by
P. Christopher Wrenn, Attorney-at-Law
whose address is P. O. Box B
Jacksonville, Florida 32203

Inst # 1998-06127
02/24/1998-06127
12:28 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 HCD 21.00

(Reserved for Clerk)

**SUBORDINATION, NONDISTURBANCE,
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE, AND ATTORNMENT AGREEMENT (this "Agreement"), made this January 13, 1998, between **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation, whose address is P.O. Box 11007, Birmingham, Alabama 35288, Attention Commercial Real Estate Loan Department, 34T (together with its successors, assigns, and transferees "Lender") and **WINN-DIXIE MONTGOMERY, INC.**, a Florida corporation, whose address is 1550 Jackson Ferry Road, Montgomery, Alabama 36104 (together with its successors and assigns, "Winn-Dixie");

RECITALS:

1. Lender has made or is about to make a loan to Birmingham Realty Company, an Alabama corporation ("Landlord"), secured by a mortgage, deed of trust, security deed, or other financing instrument recorded or to be recorded in the Official Records of Shelby County, Alabama (together with any modifications, consolidations, extensions, replacements, or renewals thereof, the "Mortgage"), encumbering the real estate known as "Columbia Square" shopping center at the northwest corner of the intersection of Highway #70 and Highway #25, in Columbiana, Shelby County, Alabama, and more particularly described in the Mortgage and on Exhibit "A" attached hereto and incorporated herein (the "Shopping Center"); and

2. By Lease dated February 4, 1997 (as amended by Short Form Lease dated February 4, 1997, recorded in Official Records Volume 1997, page 08205 of the public records of Shelby County, Alabama, and as otherwise to be amended from time to time, the "Lease"), Landlord did lease unto Winn-Dixie, as tenant,

those certain premises which constitute a portion of the Shopping Center and are more particularly described in the Lease (the "Premises"); and

3. Lender and Winn-Dixie desire that the Lease shall not terminate but rather shall remain in full force and effect in accordance with its terms if the Mortgage is foreclosed or any transfer of the Premises is made in lieu thereof.

NOW THEREFORE, for valuable consideration the receipt and sufficiency of which are hereby acknowledged, Lender and Winn-Dixie agree as follows:

1. Provided Winn-Dixie is not in material default under the terms of the Lease, then in the course of or following any exercise of any remedy under the Mortgage, any foreclosure sale of the Shopping Center or the Premises, or any transfer of the Shopping Center or the Premises thereafter or in lieu of foreclosure (together with any similar events, a "Foreclosure Event"):

(a) The right of possession of Winn-Dixie to the Premises and Winn-Dixie's rights arising out of the Lease shall not be affected or disturbed by Lender.

(b) Winn-Dixie shall not be named as a party defendant unless required by law.

(c) The Lease shall not be terminated or affected by any Foreclosure Event.

2. Following a Foreclosure Event, Winn-Dixie shall attorn to Lender as its new landlord and the Lease shall continue in full force and effect as a direct lease between Winn-Dixie and Lender. Notwithstanding the foregoing, Lender shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord), unless such action was taken at the direction of or with the approval of Lender; or

(b) subject to any offsets or defenses which Winn-Dixie might have against any prior landlord (including Landlord) except those which arose out of such landlord's default under the Lease and accrued after Winn-Dixie has notified Lender and given Lender an opportunity to cure as provided in the Lease; or

(c) bound by any rent Winn-Dixie paid for more than the then current month to any prior landlord (including Landlord);

(d) bound by any modification of the Lease made after the date hereof without Lender's consent; or

(e) liable to Tenant if Lender acquires ownership of the Premises through foreclosure or any transfer of the Premises made in lieu thereof for any violation of the 1/4 mile use restriction set forth in Section 7 of the Lease.

3. Following a Foreclosure Event, Lender promptly shall give notice thereof to Winn-Dixie, stating its current address and providing evidence of Lender's title to the Premises.

4. The Lease is subject and subordinate to the lien of the Mortgage and to all advances made or to be made thereunder as though the Mortgage had been executed and recorded prior in point of time to the execution of the Lease. Notwithstanding the foregoing, subordination of the Lease to the Mortgage should not be construed to constitute Tenant's consent or agreement to any term, condition, or provision of the Mortgage or any related loan document which is inconsistent with or purports to modify, alter, or amend the Lease.

5. The foregoing provisions shall be self-operative and effective without the execution of any further instrument on the part of either party hereto. However, Winn-Dixie agrees to execute and deliver to Lender such other instrument as Lender shall reasonably request to evidence such provisions.

6. Winn-Dixie agrees it will not, without the prior written consent of Lender (i) modify the Lease or any extensions or renewals thereof in such a way as to reduce rent, accelerate rent payment, shorten the original term, or change any renewal option; (ii) terminate the Lease, except as provided by its terms; (iii) tender or accept a surrender of the Lease or make a prepayment in excess of one (1) month of any rent thereunder; or (iv) subordinate or knowingly permit subordination of the Lease to any lien subordinate to the Mortgage, except for those liens that are superior to the Mortgage by law, if any. Any such purported action without such consent shall be void as against Lender.

7. Winn-Dixie will give notices to Lender in accordance with paragraph 32 of the Lease at the address set forth in the first paragraph of this Agreement or at such other address as Lender may advise from time to time. Lender shall be entitled to the cure periods provided in paragraph 32 under the Lease.

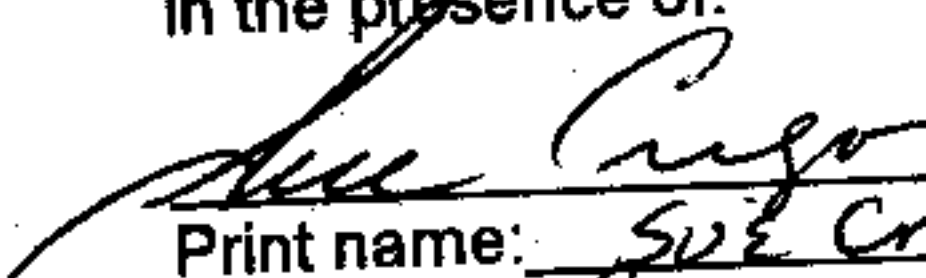
8. If Lender, or its assignee, obtains Landlord's interest in the Shopping Center, Lender agrees to promptly provide or cause to be provided to Tenant (a) a copy of any current marked title commitment or

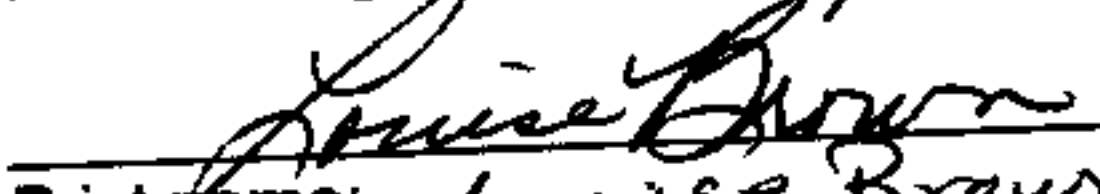
title policy showing any new landlord as the owner thereof, (b) a W-9 form or its equivalent setting forth the name and tax identification number of the party collecting rent, signed by an authorized person, (c) a letter of instruction on the letterhead of Landlord (or new landlord in the case of a sale or other transfer) stating (i) the name, address, phone number, and contact person of the entity collecting rent under the Lease, and (ii) the names, addresses, and telecopy numbers of all persons to be provided notices from Tenant under the Lease, (collectively, the "Transfer Requirements") and/or (d) such other information as Tenant may reasonably require. Following receipt of the foregoing, as of the date of any such transfer, the transferring landlord shall be released from any obligations accruing after the date of the transfer except as otherwise expressly provided in the Lease. The Transfer Requirements must be met to ensure that Tenant is paying rent to the proper, entitled party and Tenant shall have the right to temporarily withhold rent in trust pending receipt of Transfer Requirements.

9. If Lender enforces any right under the Mortgage to collect rent under the Lease, without obtaining title to the Premises, Lender shall provide to Tenant a W-9 form or its equivalent setting forth its proper name and tax identification number, signed by an authorized person, and/or such other information as Tenant may reasonably require (collectively, the "Tax Data"). The Tax Data must be obtained by Tenant to ensure that Tenant is paying rent to the proper, entitled party and Tenant shall have the right to temporarily withhold rent in trust pending receipt of the Tax Data.

IN WITNESS WHEREOF, Lender and Winn-Dixie have executed this Agreement the day and year first above written.

Signed, sealed and delivered
in the presence of:



Print name: SUE CREGO


Print name: LOUISE BROWN

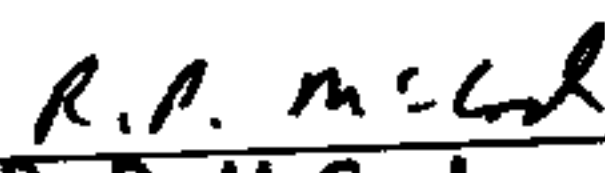

Print name: LAURA L. ANDREWS


Print name: LAURA E. BAUGHMAN

NATIONWIDE LIFE INSURANCE COMPANY

By: 
Its: Robert H. McNaghten
Vice President
Date: _____

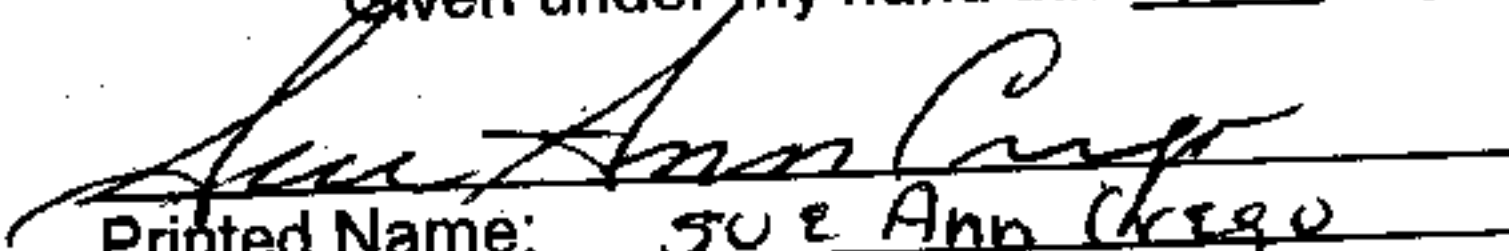
WINN-DIXIE MONTGOMERY, INC.

By: 
Its: R. P. McCook
Vice President
Date: 1-13-98

STATE OF OHIO
COUNTY OF Franklin

I, Sue Ann Grego, a Notary Public in and for said County, in said State, hereby
certify that Robert H. McNaghten, whose name as Vice President of Nationwide
Life Insurance Company, an Ohio corporation, is signed to the foregoing instrument, and who is known to me,
acknowledge before me on this day that, being informed of the contents of the instrument, he/she, as such
officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 9 day of February, 1998.

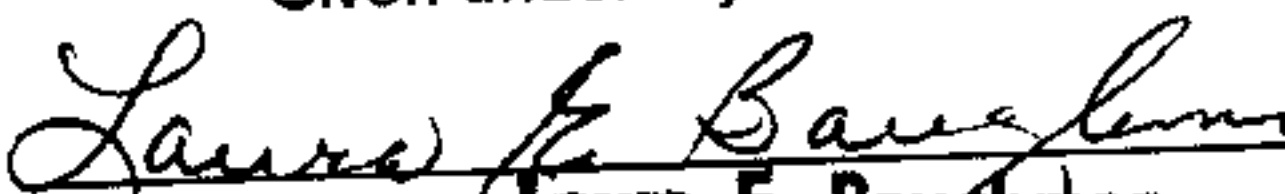

Printed Name: Sue Ann Grego
Notary Public, State and County aforesaid
My Commission Expires: _____


(Notarial Seal) Sue Ann Grego
Notary-Public-State of Ohio
My Commission expires
10-24-00

STATE OF FLORIDA
COUNTY OF DUVAL

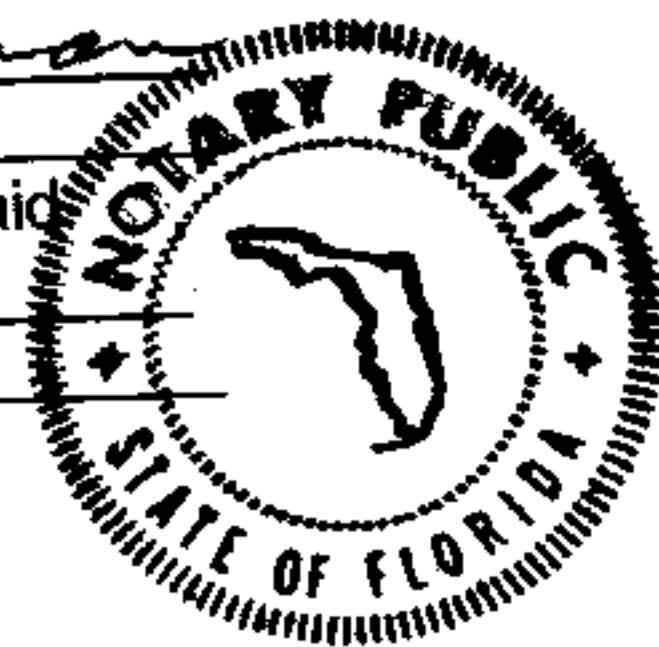
I, Laura E. Baughman, a Notary Public in and for said County, in said State, hereby
certify that R. P. McCook, whose name as Vice President of Winn-Dixie Montgomery, Inc.,
a Kentucky corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before
me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority,
executed the same voluntarily for and as the act of said corporation.

Given under my hand this 13 day of January, 1998.


Printed Name: Laura E. Baughman
Notary Public, State and County aforesaid
My Commission Expires: _____

Notary ID No.: _____
(NOTARIAL SEAL)

O:\TRANSFER\MONTGOME\0597\SNDA.WPD



LAURA E. BAUGHMAN
My Comm. Exp. July 17, 1998
Comm. No. CC 380239

EXHIBIT "A"

SHOPPING CENTER SITE
WINN DIXIE, COLUMBIANA, AL

A PARCEL OF LAND LOCATED IN THE NE 1/4 OF THE NW 1/4 AND THE NW 1/4 OF THE NE 1/4 OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 1 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NE CORNER OF THE NW 1/4 OF SAID SECTION 26; THENCE IN A NORTHERLY DIRECTION ALONG THE PROJECTION OF THE EASTERLY LINE OF SAID SECTION 26, A DISTANCE OF 2.82 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF DEPOT STREET SAID POINT ALSO BEING AN OLD REBAR CORNER WHICH IS ALSO THE SE CORNER OF THE ELLIOT LOT DESCRIBED IN DEED BOOK 12, PAGE 496; THENCE 137 DEGREES 14 MINUTES 28 SECONDS RIGHT IN A SOUTHEASTERLY DIRECTION ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 30.06 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG LAST DESCRIBED COURSE AND SAID RIGHT OF WAY LINE, A DISTANCE OF 40.09 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS RIGHT IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 200.73 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS LEFT IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 77.68 FEET; THENCE 21 DEGREES 21 MINUTES 23 SECONDS LEFT IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 171.49 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF ALABAMA HIGHWAY NO. 25; THENCE 90 DEGREES RIGHT IN A SOUTHWESTERLY DIRECTION AND ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 571.64 FEET TO A 1" SOLID IRON AT THE NORTHEAST CORNER OF THAT PARCEL DESCRIBED IN VOLUME 305, PAGE 237; THENCE 59 DEGREES 03 MINUTES 43 SECONDS RIGHT IN A NORTHWESTERLY DIRECTION ALONG THE NORTHERLY LINE OF SAID PARCEL, A DISTANCE OF 289.44 FEET TO AN OPEN TOP IRON; THENCE 0 DEGREES 11 MINUTES 30 SECONDS LEFT IN A WESTERLY DIRECTION ALONG THE NORTHERLY LINE OF A PARCEL DESCRIBED IN VOLUME 228, PAGE 49, A DISTANCE OF 96.94 FEET; THENCE 69 DEGREES 48 MINUTES 55 SECONDS RIGHT IN A NORTHWESTERLY DIRECTION, A DISTANCE OF 412.28 FEET; THENCE 51 DEGREES 18 MINUTES 52 SECONDS RIGHT IN A NORTHEASTERLY DIRECTION, A DISTANCE OF 462.07 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF SOUTHERN RAILWAY; THENCE 30 DEGREES 06 MINUTES 20 SECONDS RIGHT IN A NORTHEASTERLY DIRECTION, A DISTANCE OF 235.48 FEET TO A POINT ON THE WEST LINE OF SAID ELLIOT LOT; THENCE 81 DEGREES 15 MINUTES 03 SECONDS RIGHT IN A SOUTHEASTERLY DIRECTION ALONG SAID WEST LINE OF THE ELLIOT LOT, AND PARALLEL WITH THE WESTERLY RIGHT OF WAY LINE OF DEPOT STREET, A DISTANCE OF 146.98 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS RIGHT IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 10.02 FEET; THENCE 93 DEGREES 46 MINUTES 21 SECONDS LEFT, IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 130.06 FEET; THENCE 86 DEGREES 13 MINUTES 39 SECONDS LEFT IN A NORTHEASTERLY DIRECTION, A DISTANCE OF 200.73 FEET TO THE POINT OF BEGINNING, CONTAINING 10.79 ACRES, MORE OR LESS.

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