

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "Agreement") is made and entered into as of the 12<sup>th</sup> day of February, 2010, by and between, **CITY NATIONAL BANK OF FLORIDA**, a national banking corporation ("Lender") and **ADVANCE STORES COMPANY, INCORPORATED**, 5008 Airport Road, Roanoke, Virginia 24012 ("Tenant").

**WITNESSETH:**

**WHEREAS**, by the Lease dated June 25, 2008, (the "Lease") Tenant has leased from Hoover AA, LLC, as successor in interest to AA Valleydale, LLC ("Landlord"), the premises situated at Valleydale Road, Shelby County, Alabama consisting of 1.61 acres, upon which Landlord has constructed an approximately 6,000 square foot building and other improvements for Tenant's use, as more particularly described in the Lease (the "Leased Premises").

**WHEREAS**, Lender is the holder of a mortgage on the Leased Premises, given to Lender by Landlord dated as of February 12, 2010, recorded on \_\_\_\_\_, \_\_\_\_\_, in the Office of the Recorder of Deeds of Shelby County, Alabama, in Book \_\_\_\_\_ at Page \_\_\_\_\_, as Document No. 20100330000946 collectively referred to herein with any other documents securing the debt secured by such mortgage as the "Mortgage").

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Lender hereby consents to the Lease.
2. The Lease is and shall be subject and subordinate at all times to the lien of the Mortgage and to all renewals, replacements and extensions of the Mortgage to the full extent of the principal sum secured thereby and interest thereon.
3. In the event Lender shall commence an action to foreclose the Mortgage or to obtain a receiver of the Leased Premises, or shall foreclose the Mortgage by advertisement, entry and sale according to any procedure available under the laws of the state, Tenant shall not be joined as a party defendant in any such action or proceeding and Tenant shall not be disturbed in its possession of the Leased Premises, so long as Tenant is not in default under any of the material terms, covenants, or conditions of the Lease beyond any applicable cure period provided in the Lease.
4. In the event Lender shall acquire the Leased Premises upon foreclosure, or by deed in lieu of foreclosure, or by any other means:

WHEN RECORDED RETURN TO:  
OLD REPUBLIC TITLE  
ATTN: POST CLOSING  
530 SOUTH MAIN STREET  
SUITE 1031  
AKRON, OH 44311

21268301

AAP Store #8534 – Birmingham, AL

**RECORD**

**FIFTH**



- (a) Tenant shall be deemed to have made a full and complete attornment to Lender as Landlord under the Lease so as to establish direct privity between Lender and Tenant; and
  - (b) All rights and obligations under the Lease shall continue in full force and shall be enforceable with the same force and effect as if the Lease had originally been made and entered into directly by and between Lender as Landlord thereunder, and Tenant; and
  - (c) Lender shall recognize and accept the rights of Tenant and shall thereafter assume the obligations of Landlord under the Lease.
5. Nothing herein contained shall impose any obligations upon Lender to perform any of the obligations of Landlord under the Lease, unless and until Lender shall become owner or mortgagee in possession of the Leased Premises.
6. Any notice required or desired to be given under this Agreement shall be in writing and shall be deemed given (a) upon receipt if delivered personally; (b) two (2) business days after being deposited into the U.S. mail if being sent by certified or registered mail, return receipt requested, postage prepaid; or (c) one (1) business day after being sent by reputable overnight air courier service (i.e., Federal Express, Airborne, etc.) with guaranteed overnight delivery, and addressed as follows:

**If to Lender:**                    **CITY NATIONAL BANK OF FLORIDA**  
25 West Flagler Street  
Miami, Florida 33130  
Attention: Loan Administration

**If to Tenant:**                    **ADVANCE STORES COMPANY, INCORPORATED**  
5008 Airport Road  
Roanoke, Virginia 24012  
Attention: Real Estate Department

**Copy to:**                        **ADVANCE STORES COMPANY, INCORPORATED**  
5008 Airport Road  
Roanoke, Virginia 24012  
Attention: Legal Department

Either party, at any time and from time to time (by providing notice to the other party in the manner set forth above), may designate a different address or person, or both, to whom such notice may be sent.

7. This Agreement shall be binding upon and inure to the benefit of any person or entity acquiring rights to the Leased Premises by virtue of the Mortgage, and the successors, administrators and assigns of the parties hereto.



8. No fixtures, furnishings, inventory, equipment or other personal property of Tenant are subject to the lien of the Mortgage.
9. Lender's liability under the Lease and under this Agreement, if any, shall be limited to Lender's interest in the Leased Premises including but not limited to any rent, accounts, receivables, insurance, proceeds, profits and income or issue therefrom and in no event shall Lender have personal liability under the Lease and/or under this Agreement, except as otherwise provided herein.

IN WITNESS WHEREOF, this Agreement has been signed and sealed on the day and year first above set forth.

Attest:

Lender:

Susan A Mandell  
City of Houston

CITY NATIONAL BANK of Florida  
By: [Signature]  
Name: Robert L Davis Jr  
Title: V.P.

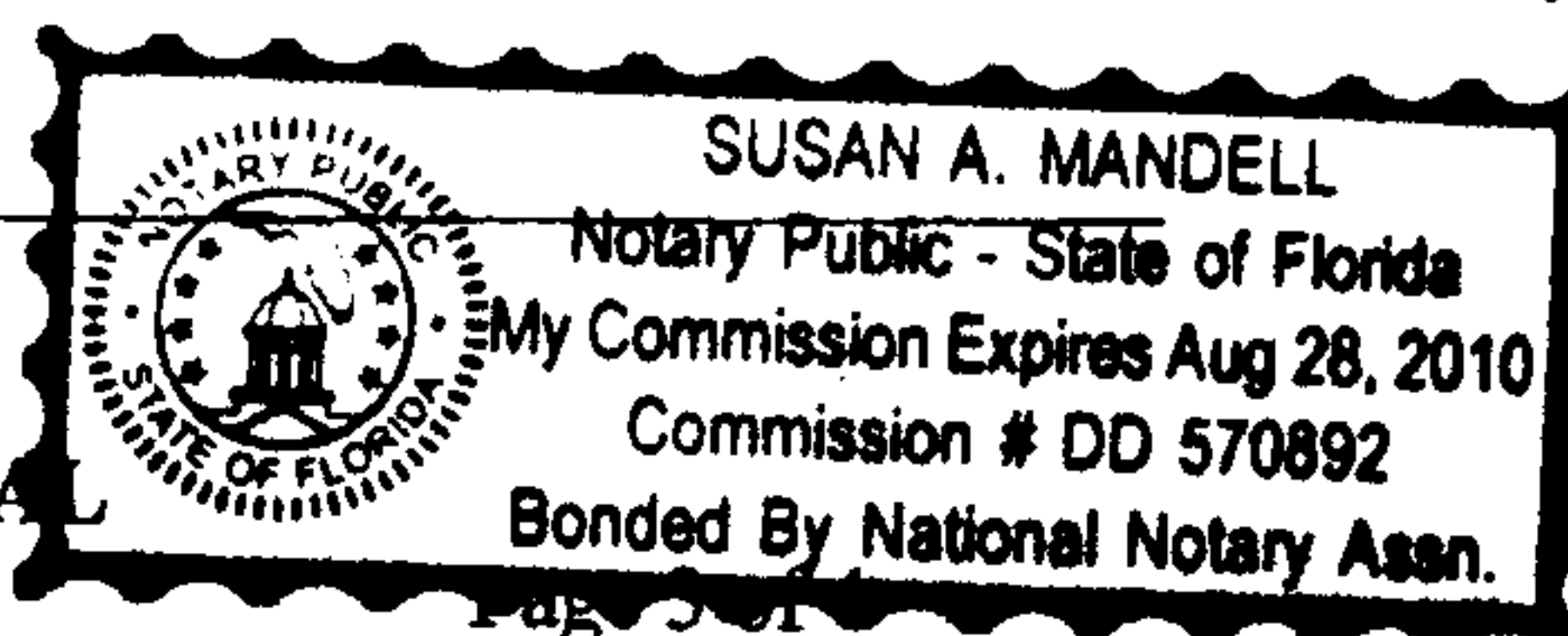
STATE OF FLORIDA )  
 ) SS;  
COUNTY OF BROWARD )

THE undersigned, a Notary Public, in and for the County and State aforesaid, does hereby certify, that ROBERT L DAVIS personally known to me to be the VICE PRESIDENT of CITY NATIONAL BANK of Florida, and personally known to me to be the same person whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged under oath that as such \_\_\_\_\_ he signed and delivered the said instrument pursuant to authority duly given to him by said \_\_\_\_\_.

Given under my hand and seal this 11<sup>th</sup> day of FEBRUARY, 2010.

Susan A Mandell  
Notary Public

My Commission Expires: \_\_\_\_\_



AAP Store #8534 - Birmingham, AL



Shelby Cnty Judge of Probate, AL  
03/30/2010 11:18:07 AM FILED/CERT

Witness:

Tenant:

**ADVANCE STORES COMPANY,  
INCORPORATED**

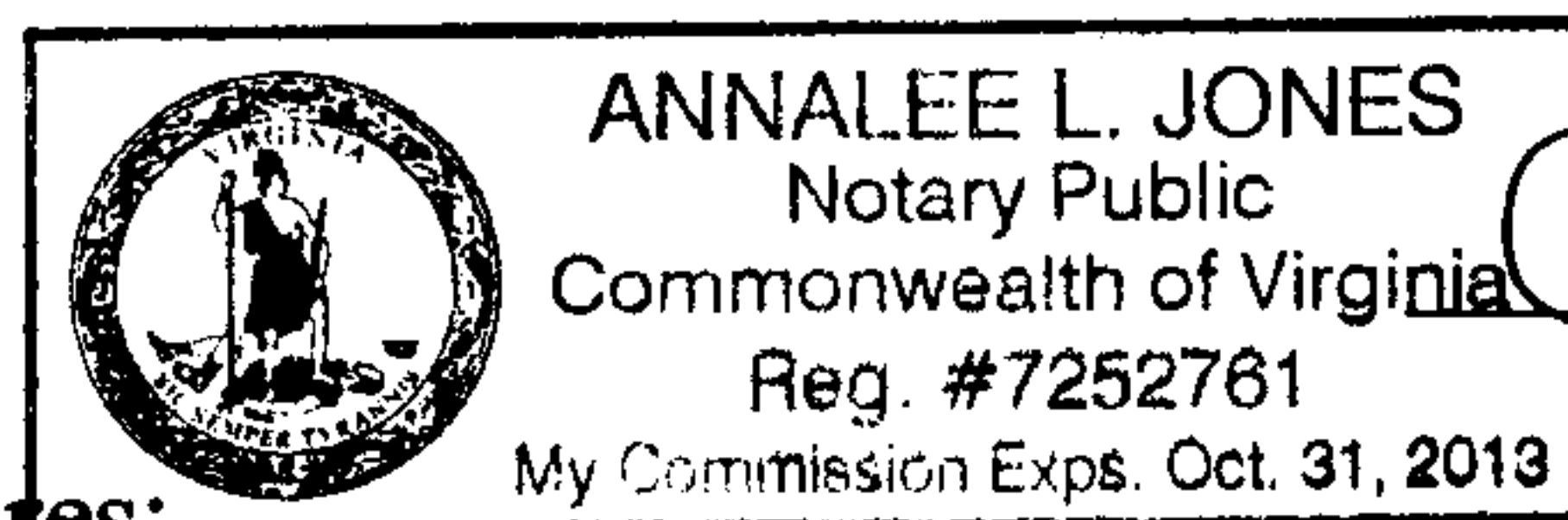
Jan a Brown  
Kimly Burt

By: Randall A Young  
Randall A. Young  
Senior Vice President,  
Real Estate

STATE OF VIRGINIA                    )  
  ) SS;  
COUNTY OF ROANOKE                )

**THE** undersigned, a Notary Public, in and for the County and State aforesaid, does hereby certify, that Randall A. Young, Senior Vice President, Real Estate Department OF **ADVANCE STORES COMPANY, INCORPORATED**, a Virginia corporation, and 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 under oath that as such Senior Vice President, Real Estate, he signed and delivered the said instrument pursuant to authority duly given to him by said corporation.

Given under my hand and seal this 2<sup>nd</sup> day of February, 2010.



My Commission expires: \_\_\_\_\_

Annalee L Jones  
Notary Public

**Prepared by and return to when recorded:**

**ADVANCE STORES COMPANY, INCORPORATED**

Attn: Real Estate Department  
5008 Airport Road  
Roanoke, Virginia 24012

