



200001190117

Kathy Hill, Skagit County Auditor

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**AFTER RECORDING RETURN TO:**

Washington Mutual Bank dba Western Bank  
1201 Third Avenue, WMT1013  
Seattle, Washington 98101

Attention: Commercial Real Estate Department  
Loan No. 2041022-0001

FIRST AMERICAN TITLE CO.

B60664E-4

**SUBORDINATION, ATTORNMEN, AND NONDISTURBANCE  
AGREEMENT**

<b>Grantor (Owner):</b>	<b>BROLIN CO., LLC, an Oregon limited liability company</b>
<b>Grantor (Tenant):</b>	<b>PYRO INDUSTRIES, INC., a Washington corporation</b>
<b>Grantee (Lender):</b>	<b>WASHINGTON MUTUAL BANK dba WESTERN BANK, a corporation</b>
<b>Legal Description:</b>	<b>Parcel "A" Binding Site Plan for "Allegre-Mitzel"; Ptn. Tracts 84 and 85 "Burlington Acreage"</b>
	<b>Additional Legal(s) on Exhibit A</b>
<b>Assessor's Tax Parcel ID Number:</b>	<b>8022-000-001-0000(R62846)</b>

THIS AGREEMENT, is made this 11<sup>th</sup> day of JANUARY, 2000, between WASHINGTON MUTUAL BANK dba WESTERN BANK, a corporation ("Lender"), BROLIN CO., LLC, an Oregon limited liability company ("Owner"), and PYRO INDUSTRIES, INC., a Washington corporation ("Tenant").

Owner is the landlord and Tenant is the tenant under that certain lease dated NOVEMBER 29, 1990 (the "Lease"). The Lease demises portions (the "Leased Premises") of the improvements located on certain real property in Skagit County, Washington, more particularly described in such Lease and on Exhibit A attached hereto (the land and improvements are collectively referred to as the "Property"). Owner has obtained a commitment from Lender for financing for the Property (the "Loan") to be evidenced by a promissory note (the "Note") in favor of Lender, payment of which is to be secured by, among other things, a deed of trust, security agreement, assignment of leases and rents, and fixture filing (the "Deed of Trust") on the Property, and an assignment of leases and rents made by Owner as assignor in favor of Lender as assignee (the "Assignment of Rents," and collectively with the Deed of Trust, the "Security Documents").

In order to induce Lender to make the Loan to Owner, and in order to establish certain safeguards and priorities with respect to their respective rights in connection with the Leased Premises, Lender has requested that Owner obtain certain warranties and agreements from Tenant as hereinafter set forth.

In consideration of the mutual benefits accruing to each, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Restriction Against Modification.** The Lease shall not be modified, amended, terminated, or superseded, nor shall the Leased Premises be sublet by Tenant, nor shall Tenant assign its rights under the Lease to a third party, without the express prior written approval of Lender, which approval shall not be unreasonably withheld.

2. **Acknowledgment of Collateral Assignment.** Tenant acknowledges that the Lease will be collaterally assigned to Lender as security for the Loan and that the terms of the collateral assignment will prohibit the collection of rent more than one (1) month in advance or the collection of a security deposit exceeding two (2) months' rent. Upon written request by Lender accompanied by Lender's written certification that an event of default has occurred under the Note, or Security Documents, Tenant will commence paying the rental and other amounts due and owing to Owner under the Lease directly to Lender, and such payment to Lender shall constitute a full and complete discharge of the obligations of Tenant to Owner under the Lease to the extent of the amount(s) so paid.

3. **Notice and Opportunity To Cure Defaults.** Tenant agrees to notify Lender of any breach or default by Owner under the Lease and offer Lender the opportunity to cure such breach or default; and not to pursue any action or exercise any legal right or remedy that Tenant may have to terminate the Lease because of such breach or default for a period of thirty (30) days following the later of (a) expiration of the grace period, if any, that Owner is given to cure such default pursuant to the Lease or under applicable law and (b) the date upon which notice of such default was actually received by Lender. Tenant further agrees that it will not exercise any right or remedy that it may have to terminate the Lease because of a breach or default that Lender has failed to cure or cause to be cured within the aforementioned thirty (30)-day period if the breach or default is one that can be cured, but cannot with due diligence be cured prior to the expiration of said thirty (30)-day period, if Lender gives notice of its intent to cure or cause such breach or default to be cured prior to the expiration of said thirty (30)-day period, and thereafter proceeds promptly with and prosecutes with all due diligence the curing of such breach or default.

Nothing contained herein shall be construed as obligating Lender to cure any breach or default or perform any obligation of Owner under the Lease.

Notices that Lender is entitled to receive pursuant to this Section 3 shall be delivered personally or by reputable overnight courier service such as Federal Express to the address set forth below (or to such other address or addresses as Lender may from time to time designate in writing):

Washington Mutual Bank dba Western Bank  
1201 Third Avenue, WMT1013  
Seattle, Washington 98101  
Attention: Commercial Real Estate Department



4. **Subordination.** The Lease is and at all times shall continue to be subject and subordinate to the Note and the lien of the Deed of Trust and to all advances made or to be made thereunder, and to any renewals, extensions, modifications, or replacements thereof.

Specifically, and without limiting the generality of the foregoing, Tenant agrees that with respect to (a) any damage to or destruction of the Property or any portion thereof by hazards insured against and for which compensation is paid, payable, or recoverable; (b) any taking of the Property or any portion thereof by partial or total condemnation (or a transfer in lieu thereof); or (c) damages awarded for change of grade or loss of any use or enjoyment of the Property or any portion thereof, Tenant's claims thereto shall be subordinate to those of Lender under the Deed of Trust notwithstanding the covenants of Lender under Section 6 below.

Tenant shall not subordinate the Lease to any lien, claim, mortgage, deed of trust, or other encumbrance of any kind, except as provided in this Section 4, and any such other subordination shall be deemed a default under the Lease and this Agreement.

Until such time as the Loan has been repaid in full and the Deed of Trust fully reconveyed of record, any provisions of the Lease that purport to make the Lease automatically subordinate to any other existing or future mortgage, ground lease, deed of trust, or other encumbrance of any kind shall be of no force or effect, and the Lease shall be deemed to have been amended to delete such provisions.

5. **Attornment.** In the event of a foreclosure or sale of the Property pursuant to the trustee's power of sale, the Lease shall be recognized as a direct lease from Lender, the purchaser at the sheriff's or trustee's sale, or any subsequent owner (collectively, "Purchaser"), except Purchaser shall not be (a) liable for any previous act or omission of Owner under the Lease, (b) subject to any offset that shall theretofore have accrued to Tenant against Owner, (c) subject to any obligation with respect to any security deposit or prepaid rental for greater than one (1) month under the Lease unless such security deposit or prepaid rental has been physically delivered to Purchaser, or (d) bound by any previous modification of the Lease unless such modification shall have been expressly approved in writing by Lender.

The provisions of the immediately preceding paragraph shall be equally applicable if Lender elects to accept from Owner a deed in lieu of foreclosure.

6. **Nondisturbance.** So long as no default exists, nor any event has continued to exist for such period of time (after notice, if any, required by the Lease) as would entitle Owner under the Lease to terminate the Lease or would cause, without any further action of Owner, the termination of the Lease or would entitle Owner to dispossess Tenant thereunder, the Lease shall not be terminated, nor shall Tenant's use, possession, or enjoyment of the Leased Premises be interfered with, nor shall the leasehold estate granted by the Lease be affected in any foreclosure, or in any action or proceeding instituted under or in connection with the Deed of Trust.

7. **Hazardous Substances.** Tenant represents, warrants, covenants, and agrees that any use or occupancy of the Property by Tenant is presently and shall throughout the term of the Lease be in compliance with all state, federal, and local laws and regulations governing or in any way relating to the generation, handling, treatment, storage, use, dumping, discharge, or disposal of any "Hazardous Substance" (as defined below); and that Tenant has not at any time engaged in or permitted any material dumping, discharge, or disposal of such Hazardous Substances, at, on, in, above, under, or about the Property. Tenant agrees to indemnify, protect, defend, and hold Lender harmless from any claims, actions, proceedings, judgments, damages, penalties, fines, costs, liabilities, losses, and expenses of any kind that arise from any misrepresentation or breach by Tenant



of the representations, warranties, covenants, and agreements contained in this Section 7. For purposes of this Agreement, "Hazardous Substance" means any hazardous or toxic substances, materials, or wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or now or in the future defined in or regulated under any applicable local, state, or federal law, rule, regulation, or ordinance.

8. **Further Documents.** Owner and Tenant shall execute and deliver to Lender or to any party to whom Tenant hereby agrees to attorn, in form and substance satisfactory to Lender or such other party, such other instruments or assurances as Lender or such other party shall request in order to more fully carry out the intents and purposes of this Agreement.

9. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns, and the holder from time to time of the Note.

10. **Modification.** This Agreement may not be modified other than by an agreement in writing, signed by the parties hereto or their respective successors in interest.

11. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subordination of the Lease to the lien of the Deed of Trust. By its acceptance of Tenant's signature on this Agreement, Lender has not agreed to any conditions to Tenant's agreement to subordinate the Lease to a future mortgage or deed of trust that are contained in the Lease itself and are not restated in this Agreement, including, but not limited to, provisions that purport to obligate Lender for items with respect to which Lender has been relieved of responsibility for pursuant to Section 5, or provisions that purport to require Lender, as a condition to Tenant's subordination, to make condemnation and insurance proceeds available to Owner or Tenant and/or to apply such proceeds toward the cost of restoring or repairing the Property.

12. **Effect on Lease.** Except as herein modified, all of the terms and provisions of the Lease shall remain in full force and effect. In the event of a conflict between the Lease and this Agreement, the terms and provisions of this Agreement shall control.

13. **Counterparts.** This Agreement may be executed in a number of identical counterparts and by each party on a separate counterpart. If so executed, all of such counterparts shall collectively constitute one agreement.

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

DATED as of the day and year first above written.

LENDER:

WASHINGTON MUTUAL BANK dba WESTERN  
BANK, a corporation

By *Allen T. [Signature]*  
Its *Vice President*



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Kathy Hill, Skagit County Auditor  
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**OWNER:**

BROLIN CO., LLC, an Oregon limited liability company

By

George F. Detrick

George F. Detrick, Its Manager

**TENANT:**

PYRO INDUSTRIES, INC., a Washington corporation

By

William G. Farrell

William G. Farrell

Its

COO



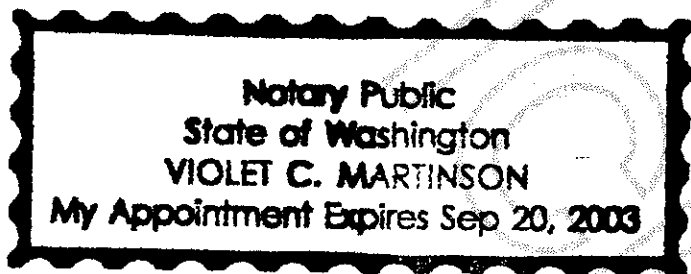
STATE OF WASHINGTON

COUNTY OF Skagit

ss.

I certify that I know or have satisfactory evidence that Alice Takehara is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument, and acknowledged it as the Vice President of WASHINGTON MUTUAL BANK dba WESTERN BANK, a corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 12th day of JANUARY, 2000.



Violet C. Martinson  
(Signature of Notary)

**VIOLET C. MARTINSON**

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,  
residing at Mount Vernon  
My appointment expires 9-20-03

STATE OF WASHINGTON

COUNTY OF SKAGIT

ss.

I certify that I know or have satisfactory evidence that WILLIAM G. FARRELL is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument, and acknowledged it as the PRESIDENT of PYRO INDUSTRIES, INC., a corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

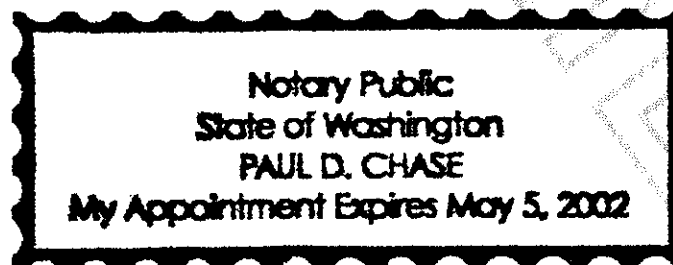
Dated this 12<sup>TH</sup> day of JANUARY, 2000.

Paul D. Chase  
(Signature of Notary)

**PAUL D. CHASE**

(Legibly Print or Stamp Name of Notary)

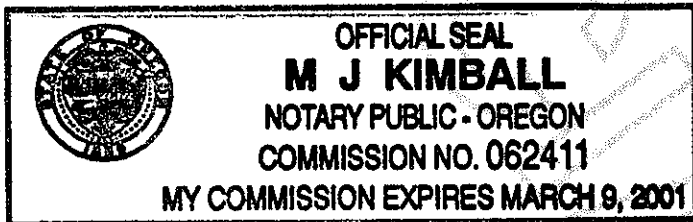
Notary public in and for the state of Washington,  
residing at ARLINGTON  
My appointment expires 5/5/2002



STATE OF ~~WASHINGTON~~ <sup>OREGON</sup> )  
COUNTY OF Multnomah ) ss.

I certify that I know or have satisfactory evidence that GEORGE F. DETRICK is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument, and acknowledged it as manager of BROLIN CO., LLC, a limited liability company, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this 18 day of JANUARY, 2000.



M J Kimball  
(Signature of Notary)  
M. J. Kimball  
(Legibly Print or Stamp Name of Notary)  
Notary public in and for the state of ~~Washington~~ <sup>OREGON</sup>,  
residing at Beaverton

My appointment expires 3/9/01

Use this space for Notarial stamp/seal



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Kathy Hill, Skagit County Auditor  
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## EXHIBIT A

The land is located in the county of Skagit, state of Washington, and is described as follows:

The land referred to herein is situated in the County of Skagit, State of Washington, and is described as follows:

Parcel "A" of that certain "BINDING SITE PLAN FOR ALLEGRE-MITZEL", as recorded January 11, 1991, in Volume 10 of Surveys, pages 181 through 183, inclusive, under Auditor's File No. 9101110040 and being a portion of Lots 84 and 85, "PLAT OF THE BURLINGTON ACREAGE PROPERTY", as per plat recorded in Volume 1 of Plats, page 49, records of Skagit County, Washington.

EXCEPT that portion described as follows:

Beginning at the Northwest corner of said Parcel "A", also being the Northeast corner of Parcel "B" of said Binding Site Plan; thence South 8 degrees 06' 32" East along the West line of said Parcel "A", 666.29 feet to the Southwest corner of said Parcel "A"; thence South 89 degrees 23' 23" East along the South line of said Parcel "A", 14.05 feet; thence North 8 degrees 04' 15" West, 364.54 feet; thence North 8 degrees 06' 32" West, 301.73 feet to the North line of said Parcel "A"; thence North 89 degrees 28' 15" West along said North line, 14.29 feet to the point of beginning.

TOGETHER WITH all reciprocal easements for ingress, egress, parking, utilities and storm drainage as set forth in said Binding Site Plan.

ALSO TOGETHER WITH reciprocal non-exclusive easement for ingress, egress and utilities over a portion of Tract 1, City of Burlington Short Plat No. 4-91, approved December 23, 1991, and recorded January 2, 1993, in Book 10 of Short Plats, Pages 42 and 43, under Auditor's File No. 9201020049, being a portion of Tract 85, "PLAT OF BURLINGTON ACREAGE PROPERTY" (1/49), as established by document recorded December 13, 1991, under Auditor's File No. 9112130029.



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