

**RECORDATION REQUESTED BY:**

Tony J. Bickel, Esq.  
Dinsmore & Shohl, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, Ohio 45202

**WHEN RECORDED MAIL TO:**

Tony J. Bickel, Esq.  
Dinsmore & Shohl, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, Ohio 45202

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4/15/2019 3:14:00 PM \$28.00  
Book - 10770 Pg - 467-475  
RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 9 P.

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SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**SUBORDINATION AND ATTORNMENT AGREEMENT**

**LANDLORD:**                    **JOHN GLENN PARTNERS, LC,**  
a Utah limited liability company,  
a/k/a John Glenn Partners, L.C.

**LENDER:**                    **NATIONWIDE LIFE INSURANCE COMPANY,**  
an Ohio corporation

**TENANT:**                    **QUALITY DISTRIBUTION, INC.,**  
a Utah corporation

Legal Descriptions:            See Exhibit A.

Parcel Identification No.:      07-35-100-015

## SUBORDINATION AND ATTORNMENT AGREEMENT

THIS SUBORDINATION AND ATTORNMENT AGREEMENT (this "Agreement"), is made this ~~15<sup>th</sup>~~ day of April, 2019, by and among **QUALITY DISTRIBUTION, INC.**, a Utah corporation, whose address is 421 North John Glenn Road, Salt Lake City, Utah 84116 ("Tenant"), **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation, its successors and assigns, whose address in One Nationwide Plaza, 1-05-701, Columbus, Ohio, Attention: Real Estate Investments (Loan Servicing) ("Lender"), and **JOHN GLENN PARTNERS, LC**, a Utah limited liability company, a/k/a John Glenn Partners, L.C., whose address is North 421 John Glenn Road, Salt Lake City, Utah 84116 ("Landlord").

### BACKGROUND

A. Lender is the owner and holder of: (i) that certain Trust Deed and Security Agreement (the "Deed of Trust") dated of even date herewith, in the original amount of \$11,500,000.00, on the real estate more particularly described on Exhibit A attached hereto (the "Property"); and (ii) an Assignment of Leases, Rents and Profits (the "Assignment") dated of even date herewith executed by Landlord for the benefit of Lender. The Deed of Trust, the Assignment and any other instruments evidencing the loan to Landlord are collectively referred to as the "Security Documents".

B. Tenant and Landlord are parties to a certain Amended and Restated Commercial and Industrial Lease dated April 1, 2019 (as the same may be amended from time to time in accordance with this Agreement, the "Lease").

C. Pursuant to the Lease, Tenant leases from Landlord the premises described therein (the "Premises"), located in Salt Lake City, Salt Lake County, Utah, and constituting a portion of the Property.

D. Tenant, Landlord and Lender desire to confirm their understanding with respect to the Security Documents and the Lease.

NOW THEREFORE, in consideration of the mutual promises of this Agreement, and intending to be legally bound hereby, the parties hereto agree and covenant as follows:

1. Subordination. The Lease and all rights, options, liens and charges of Tenant thereunder are hereby subordinated and made subject to the Security Documents, and any modification, renewal, substitution, extension or replacement thereof and each advance made thereunder as though the Security Documents, and each such modification, renewal, substitution, extension or replacement were executed and recorded, and the advance made, prior to the execution of the Lease; provided, however, in the event Lender at any time elects to have this Lease constitute a prior and superior lien to its Deed of Trust, then, and in such event, upon Lender or Landlord notifying Tenant to that effect in writing, the Lease will be deemed prior and

superior in lien to the Deed of Trust, whether the Lease is dated prior to or subsequent to the date of the Deed of Trust.

2. Election to Continue Attornment. If Lender succeeds to the interest of Landlord, as landlord under the Lease, or if the Property or the Premises are sold pursuant to Lender's rights under the Security Documents to a purchaser ("Purchaser"), and Lender or Purchaser elects, in its sole discretion, to continue the effectiveness of the Lease, then Tenant shall attorn to Lender or to Purchaser and shall recognize Lender, or such Purchaser, thereafter as landlord under the Lease and agrees to be bound under all the terms, covenants and conditions of the Lease. Such attornment shall be effective and self-operative without the execution of any further instruments.

3. Lender's Rights and Obligations. If Lender exercises any of its rights under the Security Documents, or if Lender shall succeed to the interest of Landlord under the Lease, or if any Purchaser acquires the Security Documents, the Property, or the Premises, then Lender or Purchaser shall have the same remedies by entry, action or otherwise in the event of any default by Tenant (beyond any applicable notice and cure period) in the payment of rent or in the performance or observance of any of the terms, covenants and conditions of the Lease on Tenant's part to be paid, performed or observed that Landlord had or would have had if Lender or Purchaser had not succeeded to the interest of the present Landlord. Lender or Purchaser shall not be subject to any liability or obligation to Tenant (under the Lease or otherwise) until Lender or such Purchase shall have obtained title to the Property or Premises, and then only to the extent of liabilities or obligations accruing subsequent to the date that Lender or such Purchaser has obtained title to the Property or the Premises.

4. Rent Notice. Tenant acknowledges the Assignment and after written notice (the "Rent Notice") is given to Tenant by Lender, Tenant shall thereafter pay to Lender all rent and other amounts due or to become due (the "Rent") to Landlord under the Lease and Tenant shall not be liable to Lender for Rent paid to Landlord prior to receipt of the Rent Notice provided no Rent has been paid more than thirty (30) days in advance. Landlord hereby expressly authorizes Tenant to make such payments to Lender upon reliance on the Rent Notice, without any inquiry into the factual basis or any prior notice to or consent from Landlord and hereby releases Tenant from all liability, excepting Tenant fraud, to Landlord in connection with Tenant's compliance with the Rent Notice.

5. Notice and Right to Cure. Tenant agrees, until the Deed of Trust is released by Lender, to provide Lender (at the address noted above) with a copy of each notice of default given to Landlord under the Lease at the same time such notice of default is given to Landlord. In the event of any default by Landlord under the Lease, Tenant shall not seek to terminate the Lease or to exercise any rights to setoff or abate Rent or any other remedies, until Lender has received such notice and has been given the opportunity, but without undertaking Landlord's other obligations under the Lease, to cure the default within sixty (60) days from receipt of notice. In the event Lender, has begun action to cure the default, but not completed the same during the sixty (60) day period, Tenant agrees that Lender shall have a reasonable period of

time thereafter to do so. If the default is such that it cannot practically be cured by Lender without taking possession of the Premises, Tenant agrees that any right it may have to terminate the Lease or to setoff or abate any Rent, shall be suspended for a reasonable period of time so long as Lender is diligently proceeding to acquire possession of the Premises, by foreclosure or is otherwise undertaking to cure the default of Landlord. Notwithstanding the foregoing, Lender shall have no obligation to cure any default under the Lease.

6. Parties Bound. The provisions of this Agreement shall be binding upon and inure to the benefit of Tenant, Lender and Landlord and their respective successors and/or assigns. Any party may record this Agreement at any time.

7. Captions. Captions and headings of sections are not parts of this Agreement and shall not be deemed to affect the meaning or construction of any of the provisions of this Agreement.

8. Counterparts. This Agreement may be executed in several counterparts each of which when executed and delivered is an original, but all of which together shall constitute one instrument.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located.

**[TENANT, LENDER AND LANDLORD'S SIGNATURE PAGES FOLLOW]**



[Signature Page to Subordination and Attornment Agreement]

**LENDER:**

**NATIONWIDE LIFE INSURANCE  
COMPANY, an Ohio corporation**

*RAW*

By: *[Signature]* *BAC*

Name: MICHAEL C. BEIDELMAN

Title: SENIOR INVESTMENT PROFESSIONAL  
REAL ESTATE INVESTMENTS  
AUTHORIZED SIGNATORY

STATE OF Ohio )  
 ) SS:  
COUNTY OF Franklin )

On this 12<sup>th</sup> day of April, 2019, before me, the undersigned officer, personally appeared Michael C. Beidelman who acknowledged himself/herself to be the Authorized Signatory of **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation, and that he/she, as such Investment Professional being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Elizabeth Callahan*  
Notary Public  
My Commission Expires:  
May 18, 2023



**ELIZABETH CALLAHAN**  
Notary Public, State of Ohio  
My Commission Expires  
May 18, 2023

[LANDLORD'S SIGNATURE PAGES FOLLOW]

[Signature Page to Subordination and Attornment Agreement]

LANDLORD:

**JOHN GLENN PARTNERS, LC,**  
a Utah limited liability company

Rosita M. Jasper  
Name: Rosita M. Jasper  
Title: Manager

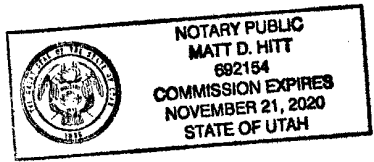
Todd D. Jasper  
Name: Todd D. Jasper  
Title: Manager

STATE OF Utah )  
 ) SS:  
COUNTY OF Salt Lake )

On this 11 day of April, 2019, before me, the undersigned officer, personally appeared Rosita M. Jasper, who acknowledged himself/herself to be the Manager of **JOHN GLENN PARTNERS, LC**, a Utah limited liability company, and that he/she, as such Manager being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]  
Notary Public  
My Commission Expires:  
11/21/20

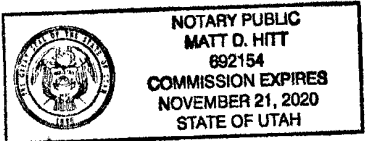


STATE OF Utah )  
 ) SS:  
COUNTY OF Salt Lake )

On this 11 day of April, 2019, before me, the undersigned officer, personally appeared Todd D. Jasper, who acknowledged himself/herself to be the Manager of **JOHN GLENN PARTNERS, LC**, a Utah limited liability company, and that he/she, as such Manager being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]  
Notary Public  
My Commission Expires:  
11/21/20



Quality Distribution 1  
14665051

Loan No. 00-1102976

**JOINDER OF GUARANTOR**

The undersigned, Rosita M. Jasper and Todd D. Jasper, guarantors of the Lease pursuant to that certain Agreement of Personal Guaranty dated April 1, 2019 (the "Guaranty"), join in the foregoing Subordination and Attornment Agreement for the purpose of consenting to be bound thereby and confirming that the Guaranty is in full force and effect, unamended, and that the undersigned have no claim of offset, defense or counterclaim to their obligations under the Guaranty and have no defenses to enforcement of the Guaranty in accordance with its terms.

Dated April ~~11th~~, 2019.

**GUARANTOR:**

*Rosita M. Jasper*  
ROSITA M. JASPER

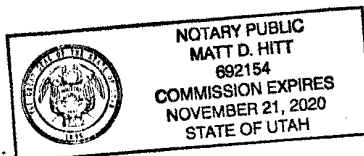
*Todd D. Jasper*  
TODD D. JASPER

STATE OF Utah )  
 ) SS:  
COUNTY OF Salt Lake )

On this 11 day of April, 2019, before me, the undersigned officer, personally appeared Rosita M. Jasper, who executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Matt D. Hitt*  
Notary Public  
My Commission Expires:  
11/21/20

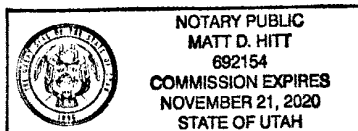


STATE OF Utah )  
 ) SS:  
COUNTY OF Salt Lake )

On this 11 day of April, 2019, before me, the undersigned officer, personally appeared Todd D. Jasper, who executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Matt D. Hitt*  
Notary Public  
My Commission Expires:  
11/21/20



Quality Distribution I  
14665051

Loan No. 00-1102976



**EXHIBIT A  
PROPERTY DESCRIPTION**

PARCEL 1:

All of Lot 5A, BONNEVILLE CENTER SUBDIVISION - PLAT B1, as described in that certain Notice of Routine Lot Line Adjustment dated April 21, 2003 and recorded April 24, 2003 as Entry No. 8624519 in Book 8783 beginning at Page 9071 of the official records of Salt Lake County, State of Utah, as same is specifically described as follows:

All of Lot 5, BONNEVILLE CENTER SUBDIVISION - PLAT B1 and a portion of Lot 7, BONNEVILLE CENTER SUBDIVISION - PLAT B2, both as recorded in the office of the Salt Lake County Recorder, lying in the West half of Section 35, Township 1 North, Range 2 West, Salt Lake Base and Meridian and being more particularly described as follows:

Beginning at a point on the East line of said Lot 7 which is 490.27 feet South 89°58'51" West along the section line and 1898.22 feet South 00°02'54" West along the Westerly right-of-way line of John Glenn Road (6070 West) from the North quarter corner of Section 35, Township 1 North, Range 2 West, Salt Lake Base and Meridian and running thence South 00°02'54" West 740.26 feet along said right-of-way line to the Southeast corner of said Lot 5; thence North 89°58'15" West 425.76 feet along the South line of said Lot 5 to a point of nontangency with a 561.69 foot radius curve to the left (radius point bears South 20°44'24" East); thence Southwesterly 497.77 feet along the arc of said curve through a central angle of 50°46'34" (chord bears South 43°52'19" West 481.65 feet) to the Southwest corner of said Lot 5; thence North 00°05'35" West 1014.88 feet along the West line of said Lot 5 to the point of curvature with a 530.00 foot radius curve to the right; thence Northeasterly 72.31 feet along the Westerly line of said Lots 5 and 7 and along the arc of said curve through a central angle of 07°19'01" (record) 07°49'02" (measured) (chord bears North 03°48'56" East 72.25 feet); thence North 89°58'45" East 757.03 feet to the point of beginning.

PARCEL 1A:

Non-Exclusive easements for access and utility purposes, appurtenant to Parcel 1, as established by that certain Amended and Restated Declaration of Easements, Covenants and Restrictions for Bonneville Center, recorded February 11, 1997 as Entry No. 6570367 in Book 7596 at Page 2627.

Tax Id No.: 07-35-100-015