

This instrument was prepared by, and
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11/16/2018 2:16:00 PM \$28.00
Book - 10731 Pg - 984-993
ADAM GARDINER
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 10 P.

Greer, Herz & Adams, LLP
Attn: Darryl H. Levy
2525 South Shore Blvd., Suite 203
League City, Texas 77573

Assessor's Parcel No. 27-13-127-015
CTIA 106903-DME

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

(Master Lease Tenant)

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is entered into as of November 15, 2018 between the undersigned **SOJO STATION, LLC**, a Utah limited liability company (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"), whose address is 2801 North Thanksgiving Way, Suite 100, Lehi, Utah 84043 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 Deed of Trust, defined below, being herein collectively referred to as "American National"), whose address is: Attn: Mortgage and Real Estate Investment Department, 2525 Shore Boulevard, Suite 207, League City, Texas 77553.

RECITALS

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

B. **SOJO STATION SOUTH, LLC**, a Utah limited liability company (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 lessor or successor to the lessor under the Lease, has requested American National to make to Borrower a loan secured or to be secured by a Deed of Trust, Assignment of Rents and Security Agreement to the trustee therein named for the benefit of American National (such Deed of Trust, Security Agreement and Financing Statement collectively together with all renewals, increases, replacements, consolidations, modifications and extensions thereof, the "Deed of Trust"), covering the property (the "Property") described on

EXHIBIT A" attached hereto and incorporated herein wherein the premises covered by the Lease are located.

C. American National is willing to make the requested 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 American National to make the requested loan, Tenant and American National 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 Deed of Trust and all rights, privileges and provisions in favor of American National 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 Deed of Trust.

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 American National acting pursuant to the Deed of Trust, and Tenant's occupancy shall not be disturbed by American National 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 American National by foreclosure, by deed in lieu of foreclosure or by any other method, and American National 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 (provided, however, that nothing herein shall prohibit American National, in its sole and absolute discretion, from recognizing the Lease as aforesaid in the event of such default), and except that Tenant shall be bound to American National 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 American National were the original lessor under the Lease, and Tenant does hereby attorn to American National 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 American National'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 American National by virtue of this Agreement until Tenant receives written notice from American National that American National 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 American National shall succeed to the interests of Borrower under the Lease, American National shall be bound to Tenant under all of the terms, covenants and conditions of the Lease, and Tenant shall, from and after American National's succession to the interests of Borrower under the Lease, have the same remedies against American National for the breach or default by American National 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 American National 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 American National;

(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 American National's prior written consent; provided, however, American National agrees that, provided all conditions for termination or amendment of the Lease have been met, or simultaneously with American National's consent will be met, to terminate or amend the Lease pursuant to Article 23 of the Lease, American National shall consent to an amendment to the Lease or termination of the Lease as provided in Article 23 of the Lease;

(f) liable for the completion of any construction on the Property or tenant improvements to the leased premises commenced, or agreed or represented to by any prior or succeeding landlord (including Borrower); or

(g) bound by any provision of the Lease restricting the use of other properties owned by American National, 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 American National 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, promptly thereupon, Tenant shall so notify American National by certified mail, return receipt requested, at the address above.

6. American National shall have the option, within a reasonable time, but not less than sixty (60) days following receipt by American National of notice as provided in paragraph 5 above, 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 American National in lieu of the performance of Borrower and that the Lease shall thereby remain in full force and effect. 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 American National as provided in paragraph 5 hereof and until the time for American National to commence and complete such cure has elapsed.

7. Tenant hereby agrees that for so long as the Deed of Trust encumbers or is a lien on the Property, or any portion thereof, and thereafter, should American National acquire the Property, or any portion thereof, no covenant, agreement or other obligation of the Landlord which is to be performed or complied with beyond the boundaries of the Property and no act or omission or occurrence which occurs beyond the boundaries of the Property (including, without limitation, any restrictions prohibiting Landlord's or its affiliates or other related persons or entities from competing, operating or leasing in competition with Tenant or to cause or restrict certain actions or activities on other property not encumbered by the Deed of Trust) shall be a breach or default under the Lease nor permit Tenant to cancel or terminate the Lease or abate or reduce any rent or other sums. Nothing in this Section 7 shall prevent Tenant from seeking or obtaining a restraining order or injunction against such breach, default, act, omission or occurrence or from obtaining a monetary judgment against Borrower or any successor landlord other than American National for any such breach, default, act, omission or occurrence.

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, American National shall be permitted to collect rent thereunder if a breach or default occurs under the Deed of Trust 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 American National, pay rent or any other sums becoming due under the Lease more than one (1) month in advance.

11. Tenant agrees that the Deed of Trust and the indebtedness secured thereby may be increased, rearranged, renewed, extended, consolidated and modified from time to time by agreement between Borrower and American National, and American National may exercise any one or more of its rights under the Deed of Trust from time to time at American National'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 American National 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 American National 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" above, 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. The Lease is in full force and effect. Neither Borrower nor Tenant is in breach or default under any provision of the Lease nor is Tenant aware of any act, omission or occurrence which, but for the passage of time, the giving of notice, or both, which would constitute a breach or default or would permit the Tenant to terminate the Lease or reduce or abate any rent thereunder. Borrower has complied fully and completely with all of Borrower's covenants, warranties and other obligations under the Lease to the date hereof. Tenant is fully obligated to pay the rent and other sums due from Tenant under the Lease, and is fully obligated to perform and is performing all of the obligations of Tenant under the Lease, without right of counterclaim, offset or other defense.

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 Borrower's obligation, if any, to provide a subordination, non-disturbance and attornment agreement, or similar document, pursuant to the Lease.

19. This Agreement is to be interpreted under the internal laws of the State of Utah, without regard to conflict of law provisions.

20. 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 Left Blank]

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

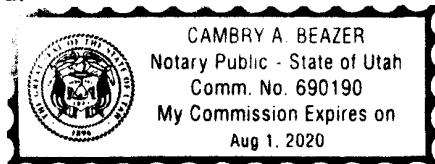
TENANT:

**SOJO STATION, LLC,
a Utah limited liability company**

By: Rich
Name: Nathan Riches
Title: Manager

STATE OF UTAH
COUNTY OF SALT LAKE

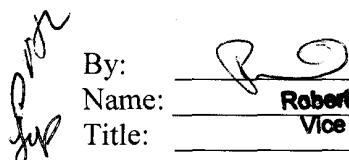
The foregoing instrument was acknowledged before me on November 5th, 2018, by Nathan Ricks, as Manager of SOJO STATION, LLC, a Utah limited liability company, on behalf of said limited liability company, for the purposes and consideration therein stated.



Carly A. Berg
NOTARY PUBLIC

Signature/Notary Page(s) Subordination, Non-Disturbance and Attornment Agreement
(Master Lease Tenant)

AMERICAN NATIONAL INSURANCE COMPANY,
a Texas insurance company

By: 
Name: Robert J. Kirchner
Title: Vice President

STATE OF TEXAS §
§ ss.
COUNTY OF GALVESTON §

The foregoing instrument was acknowledged before me on November 8, 2018, by
Robert J. Kirchner, as Vice President of AMERICAN
NATIONAL INSURANCE COMPANY, a Texas insurance company, on behalf of said
company, for the purposes and consideration therein stated.

Chelsea R. Gates
NOTARY PUBLIC

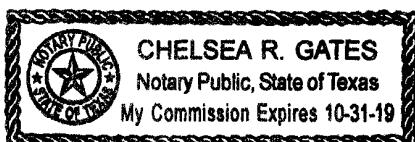


EXHIBIT "A"

MORTGAGED PROPERTY

Lot 3, SOJO SUBDIVISION PHASE 2, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder on March 31, 2017 as Entry No. 12506703 in Book 2017P at Page 68.

Tax Id No.: 27-13-127-015

EXHIBIT "B"

TO

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

The Lease referred to in the foregoing Agreement is that certain Master Lease Agreement made and entered into dated on or about even date hereof by and between SoJo Station South, LLC, as landlord, and SoJo Station, LLC, as tenant, approximately 9,021 rentable square foot portion of a to be constructed office building containing approximately 180,416 rentable square feet located at approximately 10333 South Jordan Gateway, South Jordan, Utah. The Lease has not been amended or modified.