

*After recordation this instrument  
should be returned to:*

Thrivent Financial for Lutherans  
Attn: Loan Administration, Mortgages and Real  
Estate Investments  
901 Marquette Avenue, Suite 2500  
Minneapolis, Minnesota 55402

*This instrument was drafted by:*

Kevyn Aldrich  
The Clawson Group  
292 E. 12200 S., Suite 200  
Draper, UT 84020

Loan No. 10-0038590

CT-108101-CAB

[Above space reserved for recording information.]

**Tax Parcel No.:** 07-27-126-001-0000

## **SUBORDINATION, NONDISTURBANCE AND ATTORNMENMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENMENT AGREEMENT ("Agreement") is made and entered into as of the 21 day of August, 2023, by and among ALAN RITCHEY, INC., a Texas corporation ("Tenant"), XR QUADRANT II, LLC, a Utah limited liability company ("Borrower"), and THRIVENT FINANCIAL FOR LUTHERANS, a Wisconsin corporation ("Lender").

### **RECITALS**

A. Tenant is the lessee and Borrower is the lessor under that certain Lease Agreement dated April 21, 2022, as amended by n/a (collectively, the "Lease").

B. Borrower has requested that Lender make a loan to Borrower to be secured by a Mortgage or Deed of Trust from Borrower to Lender ("Security Instrument"), and an Assignment of Rents and Leases from Borrower to Lender ("Assignment"), covering the property wherein the premises ("Premises") covered by the Lease are located, which property is described more fully in Exhibit A attached hereto ("Property").

C. Lender is willing to make the requested loan, provided that, as one of the conditions precedent thereto, Borrower and Tenant execute this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which

are hereby acknowledged, and to induce Lender to make the requested loan, Tenant, Borrower, and Lender hereby agree and covenant as follows:

1. **Assignment.** Borrower shall absolutely grant, transfer, and assign to Lender the Lease and all rents and other sums payable under the Lease; provided, however, that until written demand is made by Lender to Tenant, all rents and other sums payable under the Lease shall be paid to Borrower, but only as they accrue. Borrower covenants and agrees that upon Tenant's receipt of written notice from Lender to pay the rent to Lender and its successors and assigns, Tenant shall pay the rent and all other sums due under the Lease as such rent and other sums become due to the Lender and shall have no liability to Borrower for such rent and other sums due under the Lease which are paid to Lender and its successors and assigns. Tenant hereby recognizes the Assignment made by Borrower to Lender and agrees to pay, upon receipt of written demand from Lender, all rents and other sums as directed by Lender.

2. **Subordination.** Borrower, Tenant and Lender hereby agree that the Lease and all of its terms and provisions (including, without limitation, any option or options to purchase or rights of first refusal affecting the Property, or any portion thereof, contained therein) is and shall at all times be subject and subordinate in all respects to the Security Instrument and to all supplements, amendments and modifications thereto, and to all extensions, substitutions, rearrangements and/or replacements thereof.

3. **Nondisturbance and Attornment.** If Tenant is not in default beyond applicable cure period(s) under any of the terms, covenants or conditions contained in the Lease or this Agreement, Lender agrees that in the event of foreclosure of the Security Instrument, trustee's sale, deed in lieu of foreclosure, or other enforcement of the terms and conditions of the Security Instrument, or the exercise by Lender of its rights under the Assignment, or in the event Lender comes into possession or acquires title to the Property as a result of foreclosure or the threat thereof, or as a result of other means, such action shall not result in either a termination of the Lease, or a diminution or impairment of any of the rights granted to Tenant in the Lease, except as hereinafter provided.

If the interest of Borrower in the Property shall be transferred to Lender or any transferee of Lender by reason of foreclosure, trustee's sale, deed in lieu of foreclosure or other proceeding for the enforcement of the Security Instrument or rights of Lender under the Assignment (such transferee, its successors and assigns, including, but not limited to, Lender, shall hereinafter be referred to as "**Purchaser**"), and Tenant is not in default beyond applicable cure period(s) of its obligations under the Lease, Purchaser shall not name or join Tenant in any foreclosure, trustee's sale or other proceeding to enforce the Security Instrument or Assignment, unless required by applicable law to do so, and Purchaser shall be bound to Tenant, except as provided in Section 4 below, and Tenant shall be bound to Purchaser, under all of the terms, covenants and conditions of the Lease for the balance of the term thereof, and any extensions thereof with the same force and effect as if Purchaser were the original landlord under the Lease. Tenant does hereby attorn to Purchaser, including Lender if Lender is such Purchaser, as the landlord under the Lease, said attornment to be effective and self-operative without the execution of any further instruments upon Purchaser's succeeding to the interest of the Borrower under the Lease.

4. **Limitation on Purchaser Obligations.** Notwithstanding anything to the contrary contained in Section 3 hereof, Purchaser shall not be:

4.1 liable for any damages or other relief attributable to any act or omission of any prior lessor under the Lease (including, without limitation, Borrower);

4.2 subject to any offsets or defenses that Tenant may have against a prior lessor under the lease (including, without limitation, Borrower);

4.3 liable for any damages or other relief attributable to any latent or patent defects in construction with respect to the Property;

4.4 liable for the return of any security deposit under the Lease unless such security deposit shall have been actually deposited with Purchaser;

4.5 bound by any rent or additional rent that Tenant might have paid in advance to any prior lessor under the Lease (including, without limitation, Borrower), for any period beyond the month in which Purchaser succeeds to the interest of Borrower under the Lease;

4.6 bound by any waiver or forbearance by any prior lessor under the Lease (including, without limitation, Borrower) or bound by any agreement or modification of the Lease made without the prior written consent of Lender; or

4.7 bound by any covenant made by any prior lessor under the Lease (including, without limitation, Borrower) to complete any construction on the Property covered by the lease or to pay any sums to Tenant in connection therewith, unless Purchaser shall have expressly consented thereto in writing; or

4.8 liable for the performance of any obligations that the Borrower may have had as lessor under the Lease whether such obligations arise prior to or subsequent to such fee title ownership being obtained by Purchaser and it is further agreed that Purchaser shall be liable for only such obligations under the Lease that are incurred after Purchaser acquires fee title ownership of the Property.

5. **Further Actions.** Tenant covenants and agrees from time to time to do all acts and execute such instruments as it shall be requested by Lender to do or execute for the purposes of carrying out and effectuating this Agreement and the intent hereof, and evidencing this Agreement, whether by filing with any public office, or agency or otherwise.

6. **Covenants of Tenant.** Tenant agrees that during the term of the Lease:

6.1 Tenant will not pay any rent or additional rent more than one (1) month in advance to any lessor (including, but not limited to, Borrower); or

6.2 Tenant will not cancel, surrender, amend or modify the Lease without Lender's prior written consent nor terminate the Lease because of a default thereunder by Borrower unless Tenant shall have first given Lender written notice thereof and a reasonable opportunity to cure such default, but in no event shall such opportunity to cure exceed thirty (30) days; unless the nature of the default is such that it cannot reasonably be cured within such thirty (30) day period then Lender shall have such additional time as is reasonably required to cure such default provided Lender commences to cure such default within such thirty (30) day period and proceeds to prosecute such cure to its completion; or

6.3 in the event the Lease is rejected or deemed rejected in any bankruptcy proceeding with respect to landlord, Tenant shall not exercise any right it may have to treat the Lease as terminated under 11 U.S.C. § 365(h), as amended.

7. **Merger.** Borrower, Tenant and Lender agree that unless Lender shall otherwise consent in writing, the fee title to the Property and the leasehold estate created by the Lease shall not merge but shall remain separate and distinct, notwithstanding the union of said estates either in Borrower or Tenant or any third-party by purchase, assignment or otherwise.

8. **Limitation on Liability.** Notwithstanding anything to the contrary contained herein or in the Lease, in the event that Lender shall acquire title to the Property, Lender shall have no obligation, nor incur any liability, beyond the then interest if any, of Lender in the Property, and Tenant shall look exclusively to such interest of Lender if any, in the Property for the payment and discharge of any obligations imposed upon Lender hereunder or under the Lease, and Lender is hereby released and relieved of any other liability hereunder and under the Lease. As regards Lender, Tenant shall look solely to the estate or interest owned by Lender in the Property and Tenant will not collect or attempt to collect any such obligation or liabilities or any judgment therefor, out of any other assets of Lender. By executing this Agreement, Borrower specifically acknowledges and agrees that nothing contained in this paragraph shall impair, limit, offset, lessen, abrogate or otherwise modify the obligations of Borrower to Tenant under the Lease.

9. **Modification of Agreement.** This Agreement may not be modified orally or in any other manner except by an agreement in writing signed by the parties hereto or their respective successors in interest.

10. **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

11. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State in which the Property is located.

12. **Integration.** This Agreement shall be the whole and only agreement with regard to the subjection and subordination of the Lease and the leasehold estate created thereby, together with all rights and privileges of Tenant thereunder, to the lien or charge of the Security Instrument and shall supersede and cancel, but only insofar as would affect the priority between the Lease and the Security Instrument any prior agreements as to such subjection or subordination, including, but not limited to, those provisions contained in the Lease that provide for the subjection or subordination of the Lease and the leasehold estate created thereby to a deed or deeds of trust or to a mortgage or mortgages.

13. **Notices.** Wherever in this instrument it shall be required or permitted that notice be given by any party to the other, such notice shall be in writing. Any notice shall be deemed to have been given: (i) if mailed, no later than five (5) business days after the date the same is deposited as certified or registered mail in the United States mail, postage prepaid; or (ii) if sent by overnight courier, one (1) business day after the same is deposited, delivery charges prepaid and specifying overnight delivery, with a reputable, nationally recognized courier service which guarantees overnight delivery. Notices shall be addressed to Lender at:

Thrivent Financial for Lutherans  
Attn: Loan Administration, Mortgage and Real Estate Investments  
901 Marquette Avenue, Suite 2500  
Minneapolis, Minnesota 55402

and to the Tenant at:

Alan Ritchey, Inc.  
740 South I-35  
Valley View, TX 76272

and to Borrower at:

XR Quadrant II, LLC  
1245 Brickyard Road, Suite 70  
Salt Lake City, UT 84106

or at such other address as either party may from time to time designate in writing in lieu thereof. The address may be changed by notices given as provided herein.

14. **Captions.** The captions and headings of the paragraphs of this Agreement are for convenience only and are not to be used in construing this Agreement.

15. **Counterparts.** This Agreement may be executed in counterparts, and all counterparts together shall be construed as one document.

*[The remainder of this page is intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date first written above.

TENANT:

ALAN RITCHEY, INC., a Texas  
corporation

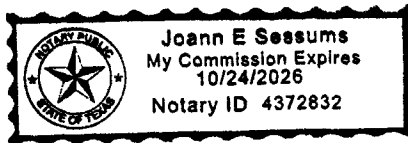
By: Richard Stroup  
Name: Richard Stroup  
Title: COO

STATE OF TEXAS )  
 )ss.  
COUNTY OF COOKE )

On August 21, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD STROUP, personally known to me or proved to me on this basis of satisfactory evidence to be the person who executed the within instrument as the COO of Alan Ritchey, Inc., a corporation under the laws of the State of Texas, on behalf of said corporation.

WITNESS my hand and official seal.

(SEAL)



Joann Sessums  
Notary Public

My Commission expires: 10-24-2026

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date first written above.

BORROWER:

XR QUADRANT II, LLC,

a Utah limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Chris Webb  
Manager

STATE OF \_\_\_\_\_

Utah

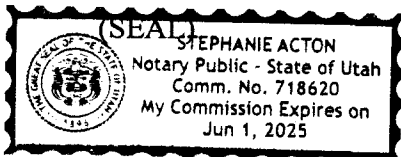
)ss.

COUNTY OF \_\_\_\_\_

Salt Lake

On August 24, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Chris Webb, personally known to me or proved to me on this basis of satisfactory evidence to be the person who executed the within instrument as the Manager of XR Quadrant II, LLC, a limited liability company under the laws of the State of Utah, on behalf of said limited liability company.

WITNESS my hand and official seal.



Stephanie Acton

Notary Public

My Commission expires: 6/1/25.

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date first written above.

BORROWER:

XR QUADRANT II, LLC,

a Utah limited liability company

By: *Paul W. Ritchie*  
Name: Paul W. Ritchie  
Title: Manager

STATE OF Utah )  
 )ss.  
COUNTY OF Salt Lake )

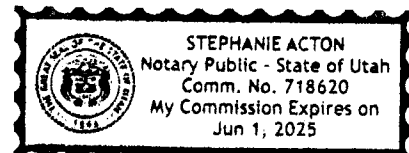
On August 24, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Paul W. Ritchie, personally known to me or proved to me on this basis of satisfactory evidence to be the person who executed the within instrument as the Manager of XR Quadrant II, LLC, a limited liability company under the laws of the State of Utah, on behalf of said limited liability company.

WITNESS my hand and official seal.

(SEAL)

*Stephanie Acton*  
Notary Public

My Commission expires: 6/1/2025.





IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date first written above.

LENDER:

**THRIVENT FINANCIAL FOR LUTHERANS, a**  
Wisconsin corporation

By: Nichole Kunz

Name: Nichole Kunz

Title: Assistant Vice President

STATE OF MINNESOTA )

)ss.

COUNTY OF HENNEPIN )

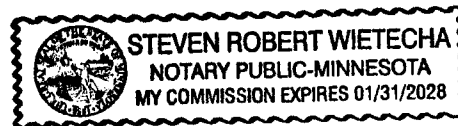
On August 24, 2023, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Nichole Kunz, personally known to me to be the person who executed the within instrument as the Assistant Vice President of THRIVENT FINANCIAL FOR LUTHERANS, a Wisconsin corporation, on behalf of said corporation.

(SEAL)

Steve Wietcha

Notary Public

My Commission expires: 1.31.28.



**EXHIBIT "A"**  
**[Legal Description]**

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

**PARCEL 1:**

Lot 2, THE QUADRANT - PLAT "A", according to the official plat thereof as recorded in the office of the Salt Lake County Recorder on September 27, 2022 as Entry No. 14022063 in Book 2022P at Page 229.

**PARCEL 2:**

A non-exclusive right-of-way and easement for vehicular ingress and egress as set forth in that certain Amended and Restated Declaration of Easements, Covenants and Restrictions recorded June 14, 2021 as Entry No. 13690259 in Book 11190 at Page 1486 of Official Records.

Tax Id No.: 07-27-126-001