

E 165321 B 407 P 723
Date 26-Feb-2024 03:05PM
Fee: \$40.00 ACH
Filed By: JM
BRENDA NELSON, Recorder
MORGAN COUNTY
For: COTTONWOOD TITLE INSURANCE AGENCY, INC.
Recorded Electronically by Simplifile

Tax Serial Number:

NOT YET ASSESSED FKA 00-0075-0671 & 00-0075-0672

RECORDATION REQUESTED BY:

WHEN RECORDED MAIL TO:

**Meadows Bank
Small Business Lending Division
8912 Spanish Ridge Avenue, Suite 100
Las Vegas, NV 89148-1311**

SEND TAX NOTICES TO:

**TIPS PROPERTIES OF UTAH, LLC
375 EAST 400 NORTH
MORGAN, UT 84050-9366**

FOR RECORDER'S USE ONLY



NOTICE: THIS SUBORDINATION AGREEMENT - LEASE RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

SUBORDINATION AGREEMENT - LEASE

THIS SUBORDINATION AGREEMENT - LEASE dated February 21, 2024, is made and executed among TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC ("Lessee"); TIPS PROPERTIES OF UTAH, LLC; TIPS EQUIPMENT OF UTAH, LLC ; TOTAL INTEGRATED PANEL SYSTEMS LLC; and TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC ("Borrower"); and Meadows Bank ("Lender").

SUBORDINATED LEASE. Lessee has executed a lease dated February 1, 2024 of the property described herein (the "Subordinated Lease"). The following information is the summary of the basic terms and conditions of the Subordinated Lease: LEASE IS BY AND BETWEEN TIPS

**SUBORDINATION AGREEMENT - LEASE
(Continued)**

Page 2

PROPERTIES OF UTAH, LLC, AS "LANDLORD" AND TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC, AS "TENANT". TENANT AGREES TO PAY LANDLORD RENT ON THE 1ST DAY OF EACH MONTH AND EVERY MONTH DURING THE TERM HEREOF. TENANT SHALL PAY TOTAL RENT IN THE AMOUNT EQUAL TO SERVICE THE DEBT ON THE SUBJECT LOCATION, INCLUDING UTILITIES, TAXES, INSURANCE AND REPAIRS. THE ANNUAL RENT HEREUNDER SHALL NOT EXCEED THE ANNUAL PAYMENT OF THESE ITEMS. THE TERM OF THE LEASE SHALL BE FOR A PERIOD OF TWENTY FIVE (25) YEARS COMMENCING THIRTY (30) DAYS FOLLOWING THE DATE OF CLOSE OF ESCROW ON PROPERTY AND/OR COMPLETION OF CONSTRUCTION ON PROPERTY, WHICHEVER IS LATER. THE LEASE MAY BE RENEWED BY THE TENANT FOR FIVE (5) FIVE (5) YEAR OPTIONS AT A TIME BY GIVING WRITTEN NOTICE TO THE LANDLORD WITHIN THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE INITIAL TERM OR ANY SUCCEEDING TERM. .

REAL PROPERTY DESCRIPTION. The Lease covers 375 EAST 400 NORTH, MORGAN, UT 84050-9366 of the following described real property located in MORGAN County, State of Utah:

See EXHIBIT "A", which is attached to this Subordination and made a part of this Subordination as if fully set forth herein.

The Real Property or its address is commonly known as 375 EAST 400 NORTH, MORGAN, UT 84050-9366. The Real Property tax identification number is NOT YET ASSESSED FKA 00-0075-0671 & 00-0075-0672.

SUPERIOR INDEBTEDNESS. Lender has extended or has agreed to extend the following described financial accommodations to Borrower, secured by the Real Property (the "Superior Indebtedness"):

A LOAN IN THE PRINCIPAL AMOUNT OF \$5,360,000.00 AS EVIDENCED BY PROMISSORY NOTE DATED FEBRUARY 21, 2024 IN THE ORIGINAL PRINCIPAL AMOUNT OF \$5,360,000.00 .

LENDER'S LIEN. The Superior Indebtedness is or will be secured by the Real Property and evidenced by a mortgage, deed of trust, or other lien instrument, dated February 21, 2024, from TIPS PROPERTIES OF UTAH, LLC to Lender (the "Lender's Lien"). As a condition to the granting of the requested financial accommodations, Lender has required that the Lender's Lien be and remain superior to the Subordinated Lease.

REQUESTED FINANCIAL ACCOMMODATIONS. Lessee and Borrower each want Lender to provide financial accommodations to Borrower in the form of the Superior Indebtedness. Borrower and Lessee each represent and acknowledge to Lender that Lessee will benefit as a result of these financial accommodations from Lender to Borrower, and Lessee acknowledges receipt of valuable consideration for entering into this Subordination.

NOW THEREFORE THE PARTIES TO THIS SUBORDINATION HEREBY AGREE AS FOLLOWS:

SUBORDINATION. All of Lessee's right, title, and interest in and to the Subordinated Lease and the Real Property is and shall be subordinated in all respects to Lender's Lien and the Superior Indebtedness, and it is agreed that Lender's Lien shall be and remain, at all times, prior and superior to Lessee's interests in the Subordinated Lease and the Real Property. Lessee also subordinates to Lender's Lien all other Security Interests in the Real Property held by Lessee,

SUBORDINATION AGREEMENT - LEASE
(Continued)

Page 3

whether now existing or hereafter acquired.

LESSEE'S REPRESENTATIONS AND WARRANTIES. Lessee hereby represents and warrants to Lender that Lessee has heretofore delivered to Lender a true, correct and complete copy of the Lease, which constitutes the entire agreement between the parties thereto and Lessee further acknowledges that the Lease is in full force and effect and that no default by Lessee or, to Lessee's knowledge, by other party under the terms and provisions of the Lease exists as of the date hereof.

LESSEE WAIVERS. Lessee waives any right to require Lender: (A) to make, extend, renew, or modify any loan to Borrower or to grant any other financial accommodations to Borrower whatsoever; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of any Superior Indebtedness secured by Lender's Lien, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Superior Indebtedness, or in connection with the creation of new or additional indebtedness; (C) to resort for payment or to proceed directly or at once against any person, including Borrower; (D) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (E) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (F) to pursue any other remedy within Lender's power; or (G) to commit any act or omission of any kind, at any time, with respect to any matter whatsoever.

LENDER'S RIGHTS. Lender may take or omit any and all actions with respect to Lender's Lien without affecting whatsoever any of Lender's rights under this Subordination. In particular, without limitation, Lender may (A) make one or more additional secured or unsecured loans to Borrower; (B) repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Superior Indebtedness or any part of it, including increases and decreases of the rate of interest on the Superior Indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) take and hold collateral for the payment of the Superior Indebtedness, and exchange, enforce, waive, and release any such collateral, with or without the substitution of new collateral; (D) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or guarantors on any terms or manner Lender chooses; (E) determine how, when and what application of payments and credits, shall be made on the Superior Indebtedness; (F) apply such security and direct the order or manner of sale of the security, as Lender in its discretion may determine; and (G) transfer this Subordination to another party.

DEFAULT BY BORROWER. If Borrower becomes insolvent or bankrupt, this Subordination shall remain in full force and effect. Any default by Borrower under the terms of the Subordinated Lease also shall constitute an event of default under the terms of the Superior Indebtedness in favor of Lender.

COUNTERPARTS. THIS AGREEMENT, AND ANY AND ALL OTHER LOAN DOCUMENTS AS PART OF OR RELATED TO THIS LOAN, MAY BE EXECUTED SIMULTANEOUSLY IN TWO OR MORE COUNTERPARTS, EACH OF WHICH SHALL BE DEEMED AN ORIGINAL BUT WHEN TAKEN TOGETHER SHALL CONSTITUTE ONE AGREEMENT.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Subordination:

**SUBORDINATION AGREEMENT - LEASE
(Continued)**

Page 4

Amendments. This Subordination, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Subordination. No alteration of or amendment to this Subordination shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Subordination, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Lessee also will pay any court costs, in addition to all other sums provided by law.

Authority. The person who signs this Subordination as or on behalf of Lessee represents and warrants that he or she has authority to execute this Subordination and to subordinate the Subordinated Indebtedness and the Lessee's security interests in Lessee's property, if any.

Caption Headings. Caption headings in this Subordination are for convenience purposes only and are not to be used to interpret or define the provisions of this Subordination.

Governing Law. With respect to procedural matters related to the perfection and enforcement of Lender's rights against the Property, this Subordination will be governed by federal law applicable to Lender and to the extent not preempted by federal law, the laws of the State of Utah. In all other respects, this Subordination will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Nevada without regard to its conflicts of law provisions. However, if there ever is a question about whether any provision of this Subordination is valid or enforceable, the provision that is questioned will be governed by whichever state or federal law would find the provision to be valid and enforceable. The loan transaction that is evidenced by the Note and this Subordination has been applied for, considered, approved and made, and all necessary loan documents have been accepted by Lender in the State of Nevada.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Subordination unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Subordination shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Subordination. No prior waiver by Lender, nor any course of dealing between Lender and Lessee, shall constitute a waiver of any of

**SUBORDINATION AGREEMENT - LEASE
(Continued)**

Page 5

Lender's rights or of any of Lessee's obligations as to any future transactions. Whenever the consent of Lender is required under this Subordination, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Successors. This Subordination shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Subordination, and the covenants of Lessee herein in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any or all of the Superior Indebtedness.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Subordination. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Subordination shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means TIPS PROPERTIES OF UTAH, LLC; TIPS EQUIPMENT OF UTAH, LLC ; TOTAL INTEGRATED PANEL SYSTEMS LLC; and TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Lender. The word "Lender" means Meadows Bank, its successors and assigns.

Note. The word "Note" means the Note dated February 21, 2024 and executed by TIPS PROPERTIES OF UTAH, LLC; TIPS EQUIPMENT OF UTAH, LLC ; TOTAL INTEGRATED PANEL SYSTEMS LLC; and TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC in the principal amount of \$5,360,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Subordination.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Security Interest. The words "Security Interest" mean, without limitation, any and all types of collateral security, present and future, whether in the form of a lien, charge, encumbrance, mortgage, deed of trust, security deed, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever whether created by law, contract, or otherwise.

EACH PARTY TO THIS SUBORDINATION ACKNOWLEDGES HAVING READ ALL THE

**SUBORDINATION AGREEMENT - LEASE
(Continued)**

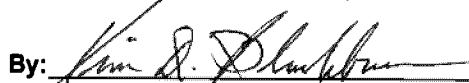
PROVISIONS OF THIS SUBORDINATION, AND EACH PARTY AGREES TO ITS TERMS. THIS SUBORDINATION IS DATED FEBRUARY 21, 2024.

BORROWER:


TIPS PROPERTIES OF UTAH, LLC

By: 
KIM D. BLACKBURN, Manager of TIPS PROPERTIES OF UTAH, LLC

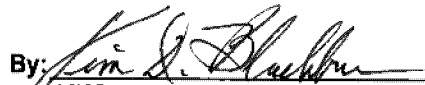
TIPS EQUIPMENT OF UTAH, LLC

By: 
KIM D. BLACKBURN, Manager of TIPS EQUIPMENT OF UTAH, LLC

TOTAL INTEGRATED PANEL SYSTEMS LLC

By: 
KIM D. BLACKBURN, Chief Executive Manager of TOTAL INTEGRATED PANEL SYSTEMS LLC

TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC


By: 
KIM D. BLACKBURN, Chief Executive Manager of TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC

**SUBORDINATION AGREEMENT - LEASE
(Continued)**

Page 7

LESSEE:

TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC

By: 
**KIM D. BLACKBURN, Chief Executive Manager of
TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC**

LENDER:

MEADOWS BANK

x 
Authorized Officer

**SUBORDINATION AGREEMENT - LEASE
(Continued)**

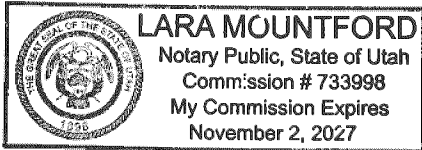
LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH)
) SS
COUNTY OF DAVIS)

On this 23 day of FEB., 20 24, before me, the undersigned Notary Public, personally appeared **KIM D. BLACKBURN, Manager of TIPS PROPERTIES OF UTAH, LLC**, and known to me to be a member or designated agent of the limited liability company that executed the Subordination Agreement - Lease and acknowledged the Subordination to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the limited liability company.

By [Signature]
Notary Public in and for the State of UTAH

Residing at UTAH
My commission expires 11/2/2027



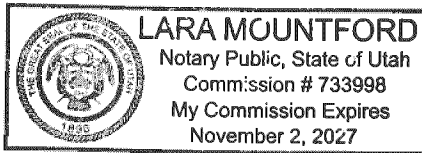
**SUBORDINATION AGREEMENT - LEASE
(Continued)**

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH)
) SS
COUNTY OF DAVIS)

On this 23 day of FEB., 20 24, before me, the undersigned Notary Public, personally appeared **KIM D. BLACKBURN, Manager of TIPS EQUIPMENT OF UTAH, LLC**, and known to me to be a member or designated agent of the limited liability company that executed the Subordination Agreement - Lease and acknowledged the Subordination to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the limited liability company.

By [Signature] Residing at UTAH
Notary Public in and for the State of UTAH My commission expires 11/2/2027



**SUBORDINATION AGREEMENT - LEASE
(Continued)**

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH)
) SS
COUNTY OF DAVIS)

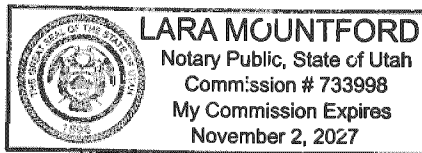
On this 23 day of FEB., 2024, before me, the undersigned Notary Public, personally appeared **KIM D. BLACKBURN, Chief Executive Manager of TOTAL INTEGRATED PANEL SYSTEMS LLC**, and known to me to be a member or designated agent of the limited liability company that executed the Subordination Agreement - Lease and acknowledged the Subordination to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the limited liability company.

By [Signature]

Residing at UTAH

Notary Public in and for the State of UTAH

My commission expires 11/2/2027



**SUBORDINATION AGREEMENT - LEASE
(Continued)**

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Utah)
) SS
COUNTY OF DAVIS)

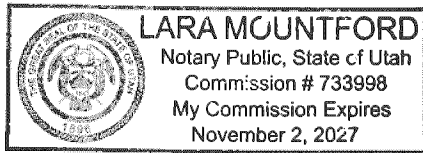
On this 23 day of FEB., 20 24, before me, the undersigned Notary Public, personally appeared **KIM D. BLACKBURN, Chief Executive Manager of TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC**, and known to me to be a member or designated agent of the limited liability company that executed the Subordination Agreement - Lease and acknowledged the Subordination to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the limited liability company.

By [Signature]

Residing at Utah

Notary Public in and for the State of Utah

My commission expires 11/2/2024



**SUBORDINATION AGREEMENT - LEASE
(Continued)**

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH)
) SS
COUNTY OF DAVIS)

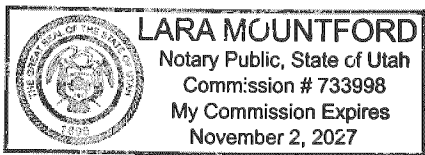
On this 23 day of FEB., 2024, before me, the undersigned Notary Public, personally appeared **KIM D. BLACKBURN, Chief Executive Manager of TOTAL INTEGRATED PANEL SYSTEMS OF UTAH, LLC**, and known to me to be a member or designated agent of the limited liability company that executed the Subordination Agreement - Lease and acknowledged the Subordination to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the limited liability company.

By [Signature]

Residing at UTAH

Notary Public in and for the State of UTAH

My commission expires 11/2/2027



**SUBORDINATION AGREEMENT - LEASE
(Continued)**

LENDER ACKNOWLEDGMENT

STATE OF Utah)
) SS
COUNTY OF Davis)

On this 23rd day of February, 20 24, before me, the undersigned Notary Public, personally appeared Manuel Bueno and known to me to be the authorized officer, authorized agent for **Meadows Bank** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of **Meadows Bank**, duly authorized by **Meadows Bank** through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and in fact executed this said instrument on behalf of **Meadows Bank**.

By Emily Elizabeth Tweed
Notary Public in and for the State of Utah

Residing at Davis County
My commission expires 11-10-25



File No. 172747-LMW.

**EXHIBIT A
PROPERTY DESCRIPTION**

Lot 1, MORGAN VALLEY INDUSTRIAL PARK 1ST AMENDMENT, according to the official plat thereof on file and of record in the Morgan County Recorder's office, recorded January 19, 2024 as Entry No. 165071 in Book 406 at Page 394.

Tax Id No.: NOT YET ASSESSED