

File: 2265942FA

Parcel ID: 14-386-0001 and 14-409-0012

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (the "**Agreement**") is made and dated as of July 19, 2022 by and between Bank of America, National Association, a national banking association (hereinafter referred to as "**Tenant**"), TIAA, FSB, its successors and/or assigns (hereinafter referred to as "**Mortgagee**"), and IC1 Clinton Pines, LLC (hereinafter referred to as "**Landlord**").

WHEREAS, Mortgagee is the owner and holder of a promissory note dated June 16, 2022 made by Landlord payable to the order of Mortgagee (herein, as it may have been or may be from time to time renewed, extended, amended or supplemented, called the "**Note**"), secured, without limitation, by a Deed of Trust (herein, as it may have been or may be from time to time renewed, extended, amended or supplemented, called the "**Deed of Trust**") recorded in Volume 8032, Page 757-774, of the Real Property Records of Davis County, Utah, covering the land (the "**Land**") described in Exhibit "A" which is attached hereto and incorporated herein by reference, and the improvements thereon (such Land and improvements being herein together called the "**Property**," and the Deed of Trust, and any other liens held by Mortgagee against the Property to secure the Note, being herein together called the "**Mortgage**"); and

WHEREAS, Tenant, as tenant, has executed a lease dated on or about May 6, 2020 (as amended, the "**Lease**") with Landlord covering the portion of the Property described in the Lease (herein called the "**Premises**"), located at 1917 W. 1800 North, Clearfield, Utah 84015 (UTW-047).

WHEREAS, the parties have agreed that the Lease shall be subordinate to the lien of the Mortgage under the conditions set forth in this Agreement.

THEREFORE, for and in consideration of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants and agreements herein contained, Tenant, Landlord and Mortgagee hereby agree as follows:

1. Subject only to the rights of Tenant hereinafter set forth, the Lease and all rights of Tenant thereunder are subject and subordinate to the lien of the Mortgage and any renewals or extensions thereof. This provision is acknowledged by Tenant to be self-operative and no further instrument shall be required to effect this subordination of the Lease. However, nothing herein is intended or shall be construed to subject to the lien of the Mortgage any property owned by Tenant or removable from the Premises by Tenant under the terms of the Lease.

2. In the event of any foreclosure under the Mortgage, either by judicial proceeding or by power of sale, or if conveyance or transfer of the Property shall be made in lieu of foreclosure (any such foreclosure or conveyance or transfer in lieu of foreclosure being herein referred to as "**Enforcement**" and any party owning the Property or any interest therein as a result of Enforcement, and its successors and assigns, being herein called "**Owner**"), then the Lease shall not be terminated as a result of the Enforcement, whether by operation of law or otherwise. Notwithstanding the Enforcement, and the fact that the Lease is subordinate to the lien of the Mortgage, the Lease shall continue in full force and effect as a binding lease agreement between Owner and Tenant in accordance with its terms, the rights of Tenant under the Lease shall not be interfered with or disturbed by Owner, and Tenant shall retain all accrued rights, if any, to self-help, abatement of rent, and other remedies permitted under the express terms of the Lease. Nothing herein shall negate the right of Owner to exercise the rights and remedies of Landlord under the Lease, including, without limitation, the right to terminate the Lease because of an Event of Default by Tenant under the Lease, and as to any breach or failure by Tenant under the Lease existing at the time of Enforcement, the Enforcement shall not operate to waive or abate the running of any notice or cure period or any action initiated by Landlord under the Lease to terminate the Lease on account of an Event of Default by Tenant. Nothing in this Agreement shall obligate Tenant to pay rent or other charges to Mortgagee until Mortgagee has succeeded to the interest of Landlord under the Lease and Tenant has received written notice thereof from Mortgagee, together with satisfactory evidence demonstrating that Mortgagee or Owner has succeeded to Landlord's interest under the Lease and directing where rent should be mailed. The term "**Event of Default**" as used herein means a breach or failure to perform by Tenant under the Lease which continues beyond the applicable cure or grace period, if any, provided in the Lease.

3. Tenant agrees that in the event of Enforcement, Tenant will attorn to Owner upon and subject to the terms and conditions of the Lease, including payment to Owner of all rentals and charges thereafter becoming due under the Lease, all without change in the terms or provisions of the Lease. Tenant agrees that Owner shall not be bound by (a) any payment of rent or additional rent made more than thirty (30) days in advance of the due date thereof, except advance rental payments expressly provided for in the Lease, or (b) any payment of rent made to Landlord thirty (30) days or more after the date on which Owner notifies Tenant in writing of its ownership of the Property as successor in interest to Landlord. Upon request by Tenant, Owner and Tenant shall execute and deliver an instrument or instruments confirming the non-disturbance and attornment herein provided for.

4. Tenant acknowledges that this Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement by Mortgagee.

5. Mortgagee may elect at any time to cause the Mortgage to be subordinate and junior to the Lease by filing an instrument in the real property records of the county in which the Property is located specifying that election and concurrently providing Tenant with written notice of that election.

6. All notices required or which any party desires to give hereunder shall be in writing and shall be addressed or delivered to the respective addresses set forth at the end of this Agreement, or to such other address as may have been previously designated by the intended recipient by notice given in accordance with this Section. If sent by prepaid, registered or certified mail (return receipt requested), the notice shall be deemed effective when the receipt is signed or when the attempted initial delivery is refused or cannot be made because of a change of address of which the sending party has not been notified; and if transmitted by personal delivery or via nationally recognized overnight mail courier service, the notice shall be effective on the earlier of (a) the date of receipt, or (b) if receipt is refused or cannot be completed due to a change of address of which the recipient has not notified the party delivery such notice, the date on which delivery is initially attempted. Notwithstanding the foregoing, no notice of change of address shall be effective except upon receipt.

7. This Agreement shall inure to the benefit of and shall be binding upon Mortgagee, Landlord, and Tenant and their respective successors and assigns, and any Owner and its heirs, personal representatives, successors and assigns. This Agreement and its validity, enforcement and interpretation, shall be governed by the laws of the State of Utah and applicable United States federal law. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

8. This Agreement may be executed in any number of counterparts with the same force and effect as if all signatures were appended to one document, each of which shall be deemed an original. Further, unless Mortgagee requires that the Agreement be recorded, the execution and delivery of the Agreement by portable document format ("PDF") copy or other electronic copy bearing the signature of any party hereto shall constitute a valid and binding execution and delivery of this Agreement by such party. Such PDF or other electronic copies shall constitute enforceable original documents.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

MORTGAGEE:

TIAA, FSB, its successors and/or assigns

By: Alexis Carter
Name: Alexis Carter
Title: Vice President

TENANT:

Bank of America, National Association

Kathleen M. Luongo
Name: Kathleen M. Luongo
Title: Vice President

UTW-047 T446767

LANDLORD:

CLINTON PINES, L.L.C., a Utah limited liability company

By: _____
Name: _____
Title: _____

Address of Mortgagee:

P.O. Box 703387
Dallas, TX 75370-3387
Attention: _____

Address of Tenant:

NC1-007-25-50
100 N. Tryon Street
Charlotte, North Carolina 28255
Attention: (UTW-047)

Address of Landlord:

1178 W Legacy Crossing Blvd
Suite 100
Centerville, UT 84014
Attention: _____

MORTGAGEE:

TIAA, FSB, its successors and/or assigns

By: _____
Name: _____
Title: _____

TENANT:

Bank of America, National Association

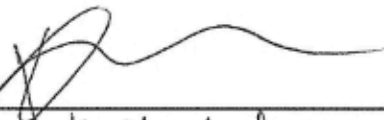


Name: Kathleen M. Luongo
Title: Vice President

UTW-047
T 455543

LANDLORD:

IC1 CLINTON PINES, L.L.C., a Utah limited liability company


By: _____
Name: Keith Anderson
Title: Manager

Address of Mortgagee:

301 West Bay Street
Floor #20
Jacksonville, FL 32202
Attention: _____

Address of Tenant:

NC1-007-25-50
100 N. Tryon Street
Charlotte, North Carolina 28255
Attention: (UTW-047)

Address of Landlord:

~~1178 W Legacy Crossing Blvd~~
~~Suite 100~~
~~Centerville, UT 84014~~ 2231 E. Murray Holiday Rd., #200
Holladay, Utah 84117
Attention: Keith R. Anderson

EXHIBIT "A"
DESCRIPTION OF THE LAND

THE LAND REFERRED TO HEREIN IS SITUATED IN DAVIS COUNTY, STATE OF UTAH, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 1, CLINTON PINES SUBDIVISION, PHASE 3, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE.

PARCEL 1A:

TOGETHER WITH AND SUBJECT TO EASEMENTS AS DESCRIBED IN THAT CERTAIN EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND ("ECR") RECORDED APRIL 11, 2003, AS ENTRY NO. 1852873, IN BOOK 3267, AT PAGE 917 OF OFFICIAL RECORDS, AND (II) THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CLINTON PINES SUBDIVISION PHASE 1 COMMERCIAL SUBDIVISION RECORDED APRIL 15, 2003, AS ENTRY NO. 1854247, IN BOOK 3269, AT PAGE 692 OF OFFICIAL RECORDS, AND (III) THAT CERTAIN PLAT OF CLINTON PINES SUBDIVISION, PHASE 3, CLINTON CITY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE.

PARCEL 1B:

TOGETHER WITH AND SUBJECT TO RECIPROCAL EASEMENTS AS DESCRIBED IN THAT CERTAIN ACCESS EASEMENT AGREEMENT RECORDED FEBRUARY 21, 2007 AS ENTRY NO. 2245996 IN BOOK 4224 AT PAGE 665 OF OFFICIAL RECORDS.

PARCEL 2:

A PART OF CLINTON PINES PHASE 4 SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, AS RECORDED IN THE DAVIS COUNTY RECORDS AS ENTRY NUMBER 2140386 IN BOOK 3958 ON PAGE 118, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTHERLY RIGHT OF WAY LINE OF 1800 NORTH STREET IN CLINTON, UTAH, SAID POINT LIES N89°56'21"E, 785.18 FEET AND S00°00'39"E, 42.00 FEET FROM THE W1/4 CORNER OF SAID SECTION 27 THENCE N89°56'21"E, 156.02 FEET; THENCE S00°18'12"E, 185.75 FEET; THENCE S89°17'30"W, 156.82 FEET; THENCE N00°00'01"E, 187.52 FEET TO THE POINT OF BEGINNING

PARCEL 2A:

TOGETHER WITH AND SUBJECT TO EASEMENTS AS DESCRIBED IN THAT CERTAIN EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND ("ECR") RECORDED APRIL 11, 2003, AS ENTRY NO. 1852873, IN BOOK 3267, AT PAGE 917 OF OFFICIAL RECORDS,

APN: 14-386-0001 and 14-409-0002

PROPERTY ADDRESS: 1917 W. 1800 NORTH, CLINTON, UT 84015 and 1803 W. 1800 NORTH, CLINTON, UT 84015