

After Recording, Return To:
Freeman Lovell, PLLC
9980 South 300 West, Suite 200
Sandy, Utah 84070

ENT68326:2022 PG 1 of 10
Andrea Allen
Utah County Recorder
2022 Jun 08 08:33 AM FEE 40.00 BY JG
RECORDED FOR Freeman Love11 PLLC
ELECTRONICALLY RECORDED

Parcel No. 12:039:0043

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this “**Agreement**”) is made and entered into as of June 6, 2022, by and among Rock Canyon Bank (“**Lender**”), Freemore, LLC (“**Master Landlord**”), Zident, LLC (“**Landlord**”) and Claire Manufacturing I, Inc. (“**Tenant**”).

RECITALS:

WHEREAS, Lender is the holder of a Promissory Note which is secured, inter alia, by a Deed of Trust from Freemore, LLC, a Utah limited liability company to Rock Canyon Bank, Trustee for the benefit of Rock Canyon Bank, dated March 8, 2022 and recorded March 10, 2022 as Entry Number 30766:2022 (the “**Mortgage**”), Loan Agreement (the “**Loan Agreement**”) and Assignment of Rents recorded March 10, 2022 as Entry Number 30767:2022 (the “**Rent Assignment**”, and collectively, the “**Loan Documents**”) covering certain real property more particularly described in the Mortgage known as 1320 N 300 W located in Lehi, Utah, and described further in Schedule A, a copy of which is attached hereto (hereinafter referred to as “**Property**”), which Loan Documents may be amended, modified, increased, re-advanced, supplemented, restated and/or replaced from time to time, and each of which encumbers the Property;

WHEREAS, Master Landlord, as lessor, and Landlord, as lessee, are the current holders of the interests of lessor and lessee under that certain Master Lease Agreement dated June 6, 2022 as the same may be amended from time to time (the “**Master Lease**”), whereby Landlord demised to Tenant the entire Property; and

WHEREAS, Landlord, as sublessor, and Tenant, as sublessee, are the current holders of the interests of sublessor and sublessee, under that certain Lease dated June 6, 2022 as the same may be amended from time to time (the “**Lease**”), whereby Landlord demised to Tenant a portion of the Property (the “**Demised Premises**”). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Lease.

WHEREAS, the parties wish to ensure that the Lease shall remain in effect for the full length of the Term, as may be extended from time to time, and that Lender and Master Landlord shall recognize Tenant’s interests during such time.

NOW THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Master Landlord, Landlord Tenant and Lender, intending to be legally bound hereby, covenant and agree as follows:

1. PRIORITY OF MASTER LEASE AND LEASE. The Master Lease and the Lease, and all of the terms, covenants, and provisions thereof, and all rights, remedies and options of Master Landlord, Landlord and Tenant thereunder are and shall at all times continue to be prior and superior in all respects to the terms, covenants, and provisions of each of the Loan Documents, and to the lien thereof, including without limitation, all renewals, increases, modifications, spreaders, consolidations, replacements, and extensions thereof and to all sums secured thereby and advances made thereunder with the same force and effect as if the Master Lease and Lease had been executed, delivered, and recorded prior to the execution and delivery of the Loan Documents, except as may be expressly provided otherwise.

2. NON-DISTURBANCE. As used herein, “**Terminated**” and any correlative term means the Master Lease has been terminated for any reason, including without limitation by reason of a default by Master Landlord or Landlord thereunder. Provided that Tenant is not in default under the Lease of such a nature as would permit Landlord to terminate the Lease pursuant to default provisions of the Lease, Lender shall not, in the exercise of any right, remedy, or privilege granted by and Loan Documents, or otherwise available to Lender at law or in equity:

- (i) disturb Tenant’s possession, enjoyment, use or occupancy of the Demised Premises and the appurtenant rights thereto under the Lease during the term of the Lease (including any extensions, renewal, or modification thereof); or
- (ii) join or name Tenant as a party to any foreclosure or other proceeding instituted by Lender to enforce the terms of the Loan Documents against Landlord.

In the event Lender comes into possession of or acquires title to all or any portion of the Property as a result of any enforcement of Loan Documents, or any other means, or in the event the Master Lease is Terminated, the Lease shall remain in effect as a direct lease between Lender and Tenant, and Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises and the rights of Tenant appurtenant thereto for the term of the Lease (as the same may be extended), subject to the terms, covenants, conditions, provisions and agreements thereof.

For avoidance of doubt, should title to the Premises be transferred to any designee of Lender or any third party purchaser (any of the foregoing, including Lender, together with their respective successors and/or assigns, a “**Successor Owner**”), including where a Successor Owner becomes the owner of the Premises by foreclosure or similar process prior to the stated expiration or other termination of the Lease (as may be extended from time to time), the Lease shall automatically continue in full force and effect and the Master Lease shall remain in full force and effect, unless the Master Lease has been Terminated, in which event the Lease shall be a direct lease with the Successor Owner.

3. ATTORNNMENT. In the event any Successor Owner comes into possession of or acquires title to all or any portion of the Property as a result of foreclosure or other enforcement of the Loan Documents, or as a result of foreclosure or any other means, the Successor Owner shall recognize Tenant’s possession of the Demised Premises and all Tenant’s rights under the Lease, and Tenant agrees to attorn to and accept the Successor Owner as landlord under the Lease for the balance then remaining of the term of the Lease, as may be extended from time to time, subject to all of the terms and conditions of the Lease. The party to whom Tenant attorns shall, under such circumstances, not disturb Tenant in its use and enjoyment of the Demised Premises, except as and when permitted to the landlord by the express terms of the Lease.

Upon any attornment under this Paragraph 3, the Lease shall continue in full force and effect as a direct lease between Tenant and Lender and Lender will assume and perform all of Landlord's obligations under the Lease except that Lender shall not be:

- (i) liable for any damages for any breach, act or omission of any prior landlord under the Lease except for acts or omissions of a continuing nature which continue after such time as Lender comes into possession of or acquires title to all or any portion of the Property; or
- (ii) subject to any offsets, claims or defenses that Tenant might have against any prior landlord except to the extent such right of offset or defense is specifically set forth in the Lease, or unless Lender was previously notified of the act or event giving rise to such offset or defense; or
- (iii) bound by any rent or additional rent or other payment in lieu of rent which Tenant might have paid to any prior landlord more than 30 days in advance of its due date under the Lease, unless such prepayment is required pursuant to the terms of the Lease; or
- (iv) be liable for any security deposit unless actually received by Lender.

The Successor Owner shall, however, be bound by any construction and improvements requirements of the landlord under the Lease failing which, Tenant may complete the required construction and improvements at the Successor Owner's cost, in which event Tenant shall be entitled to offset amounts owed by the Successor Owner against rent otherwise due and payable under the Lease.

4. RENTS. Lender hereby advises Tenant that the Rent Assignment provides for the direct payment to Lender of all rents and other monies due and to become due to Landlord under the Master Lease upon the occurrence of certain conditions as set forth in the Rent Assignment. After written notice is given to Tenant by Lender that Landlord has defaulted under the Loan Documents, or any of them, and that the rentals under the Lease should be paid to Lender, Tenant shall pay to Lender all rentals and other monies due and to become due to the Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments as directed by Lender and hereby releases and discharges Tenant of and from any liability to Landlord on account of any such payments. Tenant shall have no responsibility to ascertain whether such demand by Lender is permitted under the Loan Documents. Furthermore, in connection with the aforesaid, and notwithstanding anything to the contrary contained elsewhere, Landlord, its successor and/or assigns hereby agree to indemnify and hold harmless Tenant against any expenses, claims, losses, or damages incurred by Tenant resulting from or arising out of claims by Landlord, its successors or assigns that such rental payments should not have been, or cannot be, made to Lender or the like.

5. NOTICES. All notices and other communications pursuant to the provisions of this Agreement shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by a reputable commercial overnight carrier that provides a receipt, such as FedEx or Airborne Express, and shall be deemed given when received and addressed as noted below, or to such other address or addresses as shall from time to time be designated by notice by any party to the others as herein provided.

If to Tenant: Claire Manufacturing I, Inc.
115 W 27th St., Floor 5
New York, NY 10001

If to Lender: Rock Canyon Bank
475 East State Road
Pleasant Grove, UT 84062

If to Landlord: Zident LLC
634 W 3160 N
Lehi, UT 84043

If to Master Landlord: Freemore, LLC
634 W 3160 N
Lehi, UT 84043

Any party may change the place that notices are to be sent by written notice delivered in accordance with this Agreement. Each party shall make commercially reasonable efforts to send a copy of all notices by email if there is an email address listed above or hereafter provided in writing, but notice by email shall not be sufficient or required.

6. CONSTRUCTION. Lender and Master Landlord consent to the construction of initial improvements by Tenant, as well as other construction provided for under the Lease and Master Lease, if any.

7. SUCCESSORS AND ASSIGNS. As used in this Agreement, (a) the term “**Landlord**” shall mean Landlord and any subsequent holder or holders of an interest of the lessor under the Lease and lessee under the Master Lease, (b) the term “**Master Landlord**” shall mean Master Landlord and any subsequent holder or holders of an interest of the lessor under the Master Lease, (c) “**Tenant**” shall mean Tenant and any subsequent holder or holders of an interest of the lessee under the Lease, and (d) the term “**Lender**” shall mean Lender or any other subsequent holder or holders of the Mortgage or any party becoming a mortgagee in possession or acquiring title to the Property or the Demised Premises by purchase at a foreclosure sale, deed in lieu of foreclosure, other enforcement of the Mortgage, by deed of the Lender, or otherwise. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceable shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8. AMENDMENT; TERMINATION; WAIVER. Neither this Agreement nor any of the terms hereof or the Lease may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing executed by the party(ies) against whom enforcement of the termination, amendment, supplement, waiver or modification is sought.

9. GOVERNING LAW. This Agreement shall be construed in accordance with the laws of the State of Utah without reference to Utah's principles of conflicts of law.

10. COUNTERPARTS. This Agreement may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signature of all parties hereto be contained on any one counterpart hereof. Additionally, the parties hereto agree that for purposes of facilitating the execution of this Agreement, (a) the signature pages taken from the separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts, (b) a signature transmitted by email or in "pdf" format shall be deemed an original signature for all purposes, and (c) a signature executed by DocuSign or similar protocol shall be deemed an original signature for all purposes. All executed counterparts of this Agreement shall be deemed originals, but all such counterparts taken together or collectively, as the case may be, shall constitute one and the same agreement.

11. RECITALS. The recitals set forth at the beginning of this Agreement are hereby incorporated into and made a part of the substantive provisions of this Agreement.

12. RECORDATION. Landlord agrees to record this agreement promptly upon full execution of the same. Upon recorded satisfaction of the Mortgage, this Agreement shall become null and void and be of no further effect.

[This page ends here. Next page is Signature Page.]

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

LENDER:

Rock Canyon Bank

By: [Signature]
Name: Todd Guyman
Its: Branch Manager

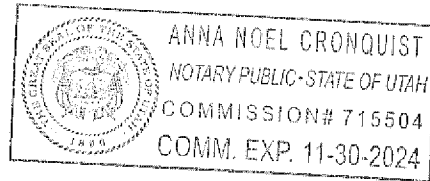
State of Utah)
County of Utah)

On this 7th day of June, in the year 2022, before me, Anna Cronquist (notary public) a notary date month year notary public name public, personally appeared Todd Guyman (document signer), whose identity is proven on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she/they signed said document in his/her/their capacity as Branch Manager (title) of Rock Canyon Bank (entity).

Witness my hand and official seal.


[Signature]
(notary signature)

(seal)



MASTER LANDLORD:

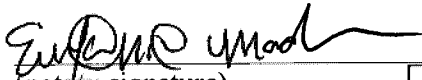
Freemore, LLC

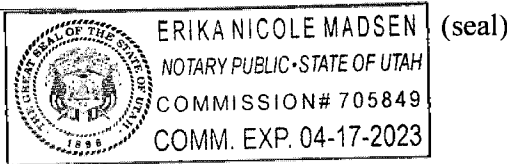
By: 
Name: Jared Moore
Its: 654 W 3160 N
Lehi UT 84043

State of Utah)
County of Utah)

On this 7 day of June, in the year 2022, before me, Erika Nicole Madsen
(notary public) a notary date month year notary public name public, personally appeared Jared Moore
Jared Moore (document signer), whose identity is proven on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she/they signed said document in his/her/their capacity as Manager (title) of Freemore, LLC (entity).

Witness my hand and official seal.


(notary signature)



LANDLORD:
Zident LLC

By: [Signature]
Name: Jared Moore
Its: 634 W 3160 N
Lehi UT 84043

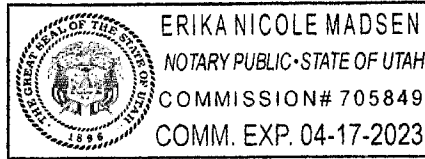
State of Utah)
County of Utah)

On this 7 day of June, in the year 2022, before me, Jared Moore
(notary public) a notary date month year notary public name public, personally appeared
Erika Madsen (document signer), whose identity is proven on the basis
of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she/they signed said
document in his/her/their capacity as Manager (title) of Zident LLC (entity).

Witness my hand and official seal.

[Signature]
(notary signature)

(seal)



TENANT:

Claire Manufacturing I, Inc.

By: [Signature]
Name: Jerry Tang
Its: Chief Operating Officer

State of California)
County of _____)

On this _____ day of _____, in the year 20____, before me, _____
(notary public) a notary date month year notary public name public, personally appeared Jerry
Tang, whose identity is proven on the basis of satisfactory evidence and who by me duly
sworn/affirmed, did say that he/she/they signed said document in his/her/their capacity as chief
operating officer of Claire Manufacturing I, Inc.

Witness my hand and official seal.

(notary signature)

(seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)
On 6/7/2022 before me, Ivan Resnikoff, Notary Public
(Date) (Here Insert Name and Title of the Officer)
personally appeared Jerry Tang
(Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)
(Signature of Notary Public)



Schedule A
Property Legal Description

Parcel No. **12:039:0043** in Utah County, State of Utah

File No.: 152555-CAB

Policy No.: O-0000-112522988

Commencing at a point located South 00°26'30" East along the Section line 1507.50 feet and West 613.11 feet from the Northeast corner of Section 8, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence South 84°02'27" West along a fence line 155.74 feet; thence North 24°31'55" West 87.57 feet; thence North 88°51'30" West along a fence line 112.70 feet; thence North 01°06'30" West 127.41 feet; thence North 87°07'30" West 130.78 feet; thence North 01°18'20" West 3.01 feet; thence North 88°08'26" West 274.85 feet; thence North 02°45'26" West along 300 West Street 184.44 feet; thence North 01°25'26" West along said 300 West Street 247.48 feet; thence South 48°29'26" East along Interstate I-15 970.59 feet to the point of beginning

LESS AND EXCEPTING THEREFROM the following described parcel of land:

Beginning at a point on the East side of an existing access road, said point being 4690.38 feet East and 1170.89 feet North and South 84°02'27" West 154.80 feet from the West Quarter Corner of Section 8, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence South 87°06'58" West 19.50 feet; thence along a curve to the right a radius of 40.00 feet and a distance of 24.80 feet, the chord of which bears South 10°57'36" West 24.41 feet; thence South 35°07'26" West 63.74 feet; thence along a curve to the left a radius of 270.00 feet a distance of 51.07 feet, the chord of which bears South 29°42'20" West 50.99 feet; thence North 81°31'08" West 37.21 feet; thence North 04°00'10" East 181.84 feet; thence North 18.50 feet; thence East 69.96 feet; thence South 25°34'51" East 93.09 feet to the point of beginning.

ALSO LESS AND EXCEPTING THEREFROM the following described parcel of land:

Commencing North 1138.7 feet and West 625.7 feet from the East Quarter Corner of Section 8, Township 5 South, Range 1 East, Salt Lake Base and Meridian; which point is on the West right-of-way line of the Utah State Road I-15; thence South 48°27'50" East 342.13 feet along said right-of-way; thence continuing along said right-of-way South 48°27'46" East 123.67 feet, more or less, to the North corner of the property of CAR-MEL Properties, L.C. as described in a Warranty Deed recorded October 10, 2002, as Entry No. 119879:2002; thence along the Northwesterly boundary of the CAR-MEL Properties, L.C. South 44°21'56" West 120.42 feet; thence South 14°52'24" West 127.38 feet; thence South 25°22'57" West 82.40 feet; thence South 08°22'04" West 34.07 feet, more or less, to the North line of the Union Pacific Railroad right-of-way; thence along said railroad right-of-way North 52°07'47" West 702.15 feet; thence North 04°10' East 65.4 feet; thence East 78.3 feet, more or less, to the Southwest corner of the land of La Rae Lindsay described in a Warranty Deed recorded March 22, 2004, as Entry No. 31610:2004; thence along the boundary line of the said Lindsay property South 81°31'08" East 37.21 feet; thence along a curve to the right having a radius of 270.00 feet a distance of 51.07 feet; the chord of which bears North 29°42'20" East 50.99 feet; thence North 35°07'26" East 63.74 feet; thence along a curve to the left having a radius of 40.00 feet a distance of 24.80 feet, the chord of which bears North 10°57'36" East 24.41 feet; thence North 87°06'58" East 19.50 feet; thence North 84°02'27" East 154.30 feet; thence South 60°24'38" East 3.92 feet, more or less, to the point of beginning.

ALSO:

Commencing North 1154.88 feet and East 4536.96 feet from the West 1/4 corner of Section 8, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence North 25°35'50" West 89.73 feet; thence South 88°51'32" East 5.85 feet; thence South 24°31'55" East 88.39 feet; thence South 84°02'27" West 3.8 feet to the point of beginning.