
Title of Document: Lease Subordination, Non-Disturbance and Attornment Agreement

Date of Document: April 21, 2021

Grantor: Woodmen of the World Life Insurance Society

Grantee: JPMorgan Chase Bank

Grantee's Mailing Address: 1111 Polaris Parkway
Mail Code OH1-0241
Columbus, Ohio 43240-2050

Legal Description: See Exhibit A

**LEASE SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS LEASE SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made effective as of April 21, 2021 between JPMORGAN CHASE BANK, a national banking association ("Tenant"); **WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY**, a Nebraska corporation ("Lender"), and MONTCLAIR CENTER, LLC, a Nebraska limited liability company ("Borrower").

RECITALS:

A. Lender made a loan (the "**Loan**") to Borrower, the repayment of which is secured by a Deed of Trust, Security Agreement, Absolute Assignment of Leases and Rents and Fixture Filing dated October 18, 2012 and recorded October 18, 2012 as Instrument No. 2012105889 with the Register of Deeds of Douglas County, Nebraska (the "**Security Instrument**") by Borrower to or for the benefit of Lender, pertaining to the real property commonly known as Montclair Shopping Center, located at or about 12955 West Center Road, in Omaha, Douglas County, Nebraska, and legally described on **EXHIBIT "A"** attached hereto and incorporated herein by this reference (the "**Property**").

B. Tenant is the current lessee of all or a certain portion (the "**Leased Premises**") of the Property pursuant to the provisions of that certain Shopping Center Lease between Borrower and Tenant dated April 8, 2021 (said instrument, as now or hereafter amended or modified is herein referred to as the "**Lease**").

C. Lender, Borrower, and Tenant desire to confirm their understanding with respect to said Lease and said Security Instrument.

AGREEMENTS

1. **SUBORDINATION**. The rights of Tenant under the Lease are subject and subordinate to the rights of Lender under the Security Instrument and to any renewal, modification, consolidation, replacement, increase, or extension of the Security Instrument. Notwithstanding the foregoing, as between Landlord and Tenant, nothing contained in this Agreement shall be deemed to: (a) excuse or reduce any obligation owed by Landlord to Tenant under the Lease; or (b) waive, in whole or part, any of Tenant's rights or remedies against Landlord under the Lease.

2. **NON-DISTURBANCE**. Neither Lender nor any trustee under the Security Instrument may disturb Tenant's possession of the Leased Premises or otherwise interfere with Tenant's rights under the Lease, unless Tenant is in default under the Lease beyond any cure period in the Lease.

3. **ATTORNMENT; LIABILITY OF LENDER**. If the Property is transferred by foreclosure, by similar judicial or non-judicial proceedings, or by sale in lieu of foreclosure (each a "**Foreclosure Event**"), neither Lender nor any trustee under the Security Instrument shall name Tenant in any foreclosure or similar proceeding, unless Lender or the trustee is required to do so under applicable rules of procedure or other law. In any Foreclosure Event, the Property shall be transferred subject to the Lease; upon request by Lender or other transferee, Tenant shall attorn to Lender or such transferee and promptly execute such instruments as may be appropriate to evidence such attornment; and effective as of the date of transfer, the Lease shall bind Lender or such transferee and Tenant to the same extent as though the transferee had been named lessor in the Lease. However, neither Lender nor such transferee shall be:

(a) liable for any act or omission of the transferor before the transfer, except acts or omissions which continue subsequent to the time Lender or such transferee acquires ownership of the Property, and only to the extent of such continuation;

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(b) subject to any claims, offsets or defenses which Tenant had against the transferor (but Tenant is not obligated to pay to the transferee any offsets taken before the Property was transferred), unless Tenant has given Lender notice and opportunity to cure any default pursuant to the provisions of **Section 6**, below; provided, however, that the forgoing shall not be deemed to modify or waive any rights of self-help, abatement, set-off or termination expressly provided for in the Lease or otherwise available pursuant to applicable law;

(c) bound by any rent, additional rent or other charges paid by Tenant more than 30 days in advance of the due date under the Lease unless actually received by Lender or transferee, or is required pursuant to the Lease, or related to credits due to Tenant pursuant to the payment of additional rent;

(d) bound by any Lease amendment entered into after the effective date of this Agreement that either (i) terminates the Lease prior to expiration or termination except as expressly provided in the Lease; (ii) changes the term of the Lease other than as expressly provided in the Lease (including existing options, if any); (iii) reduces the rent or charges payable by Tenant under the Lease or modifies the allocation of the cost of insurance, taxes or other expenses of the operation of the Property; or (iv) otherwise materially reduces the benefits of the Lease to the holder of the lessor's interest in the Lease, which is made without Lender's written consent, which consent shall not be unreasonably withheld, modified or delayed; or

(e) responsible for any security deposit delivered under the Lease and not received by Lender.

The liability of Lender, a trustee under the Security Instrument, or any other transferee in a Foreclosure Event or the liability of a subsequent owner designated as landlord under the Lease shall exist only for so long as Lender or such trustee or other transferee is the owner of the Leased Premises.

4. INSURANCE PROCEEDS AND CONDEMNATION AWARDS. If Lender or any trustee under the Security Instrument may collect the proceeds of Borrower's property insurance or the award in eminent domain proceedings under the Security Instrument, unless Tenant is in default under the Lease, beyond any cure period in the Lease, Lender and the trustee shall allow Borrower and Tenant to use those proceeds or that award to reconstruct the Property or for payment to Tenant, as may be required in the Lease. Lender may require that Borrower and Tenant comply with reasonable disbursement procedures reasonable under the circumstances to ensure that the proceeds are applied to complete the reconstruction of the Property or paid to Tenant, as required under the Lease.

5. RENT DIRECTIVE. Borrower has assigned to Lender the right to receive the rents payable under the Lease. If Lender gives notice to Tenant that Lender has elected to have Tenant pay Lender directly the rental and other charges payable by Tenant under the Lease, Tenant shall, until Lender gives tenant notice that it cancels this election, pay the rent and other charges under the Lease to Lender or at Lender's direction. Borrower hereby irrevocably directs and authorizes Tenant to comply with any direction so received by Tenant from Lender. Borrower, by its execution of this Agreement, agrees to hold Tenant harmless for the application of any payments so made.

6. NOTICE AND OPPORTUNITY TO CURE BORROWER DEFAULTS. So long as the Obligations secured under the Security Instrument have not been satisfied, Tenant shall notify Lender of any default by Borrower of those obligations under the Lease which are of a nature as to give Tenant a right to terminate the Lease, reduce rent or other charges, or to credit or offset any amounts against future rents or other charges. Lender shall thereafter have the right, but not the obligation, to effect the cure of such default within the expiration of Borrower's applicable cure period pursuant to the Lease.

7. **TRADE FIXTURES.** The lien of the Security Instrument shall not encumber Tenant's trade fixtures, furniture or equipment at any time placed or installed in the Leased Premises.

8. **DEEMED CONSENT BY LENDER.** Lender shall be deemed to have given its consent to any amendment of the Lease to which Lender would not otherwise be bound pursuant to Section 3(d) above, if Lender fails to respond, either by reasonably requesting additional information or by disapproving the request, within twenty (20) days after Lender's receipt of such request from Borrower, provided such request shall make specific reference to the provisions of this Section and shall include a statement similar to the following (in solid capital letters, or bold, or underline, or otherwise in a manner highlighting the statement) on the first page thereof: "YOU ARE HEREBY REMINDED THAT YOUR FAILURE TO PROVIDE NOTIFICATION OF APPROVAL OR DISAPPROVAL OR REASONABLY REQUEST ADDITIONAL INFORMATION NOT LATER THAN TWENTY (20) DAYS AFTER YOUR RECEIPT OF THIS REQUEST SHALL BE DEEMED, PURSUANT TO SECTION 8 OF THE SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT, TO CONSTITUTE YOUR APPROVAL THEREOF."

9. **RIGHT OF FIRST OFFER.** Any right of first offer or right of first refusal to purchase the Property in favor of Tenant under the Lease, if any, shall not apply to Lender through a foreclosure, deed-in-lieu of foreclosure or any other enforcement action under the Security Instrument; provided, however, such right of first offer or right of first refusal shall apply to subsequent purchasers of the Leased Premises.

10. **OPTION TO PURCHASE.** Any option to purchase the Property in favor of Tenant under the Lease, if any, is by this Agreement expressly made subject and subordinate to the Security Instrument. Unless Tenant assumes the Loan pursuant to the provisions of the Security Instrument and the other Loan Documents (as defined in the Security Instrument), all proceeds from the sale of the Property to Tenant under the terms of the Lease shall be paid first to Lender until all Obligations of Borrower under the Loan Documents have been satisfied. Such Obligations shall include Prepayment Consideration, if any, specified under the Loan Documents, due to Lender upon the prepayment of the principal balance of the Loan. Lender shall not be required to release the Security Instrument as a lien upon the Property unless and until all Obligations of Borrower under the Loan Documents have been paid in full.

11. **NON-MERGER.** In the event that the interests of Borrower and Tenant shall, at any time, vest in any one person or entity, it is agreed that insofar as Lender is concerned, ownership of the fee title to the Property and the Tenant's leasehold estate created by the Lease shall not merge, but shall remain separate and distinct notwithstanding the union of such estates in Borrower, Tenant, or any third party by reason of purchase or otherwise.

12. **NOTICES.** All notices under this Agreement shall be properly given (a) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient, (ii) one (1) Business Day after deposit for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after deposit in any U.S. Postal Service mail depository and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to Tenant, Lender, or Borrower, as the case may be, at the addresses below or addressed as such party may from time to time designate by written notice to the other parties.

To Tenant:

JPMorgan Chase Bank, NA
1111 Polaris Parkway
Mail Code OH1-0241
Columbus, Ohio 43240-2050

Attn: Lease Administration Manager

With a copy to:

JPMorgan Chase Bank, NA
1111 Polaris Parkway
Mail Code OH1-0274
Columbus, Ohio 43240-2050
Attn: Real Estate Transactor Regional Manager

With a copy to:

JPMorgan Chase Bank, NA
Legal Department
1111 Polaris Parkway
Mail Code OH1-0152
Columbus, Ohio 43240-2050
Attn: Real Estate Counsel

To Lender:

WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY
Woodmen Tower
1700 Farnam Street
Omaha, NE 68102
Attn: Investment Division

Either party by written notice to the other may designate additional or different addresses for subsequent notices or communications. For purposes of this Subsection, "**Business Day**" shall mean a day other than Saturday or Sunday and on which commercial banks are not authorized or required by law to close in the state where the Property is located.

13. AUTHORITY. The persons executing this Agreement on behalf of Tenant, Lender and Borrower each represent that he or she is authorized to execute such instruments on behalf of Tenant, Lender and Borrower, respectively.

14. ATTORNEYS FEES. If any action is commenced to enforce any provision of this Agreement or in connection with its meaning, the prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, including reasonable attorney's fees and expenses.

15. MISCELLANEOUS. This Agreement contains the entire agreement between the parties concerning the matters addressed herein. The parties may amend this Agreement only in writing. This Agreement benefits and binds the successors and assigns of each party and shall run with the land. This Agreement shall be governed in accordance with the laws of the state in which the Property is located and applicable laws of the United States of America. This Agreement may be executed in counterparts, and each counterpart shall be effective as an original when a counterpart has been signed by all parties.

[NO FURTHER TEXT ON THIS PAGE]

WITNESS WHEREOF, this Agreement has been executed by the parties effective as of the day and year first above written.

TENANT

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,
a national banking association

By: Ryan Repp
Name: Ryan Repp
Title: Executive Director

STATE OF Ohio)
COUNTY OF Delaware) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ryan Repp of JPMorgan Chase Bank, National Association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such he/she appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation/association, for the uses and purposes therein set forth

Given under my hand and notarial seal this 8th day of April, 2021.



Lisa Ransom
Notary Public, State of Ohio
My Commission Expires
January 8, 2026

Notary Public Lisa Ransom
My Commission Expires: 1/8/2026

[NO FURTHER TEXT ON THIS PAGE]

LENDER:

**WOODMEN OF THE WORLD LIFE
INSURANCE SOCIETY**, a Nebraska corporation

By: Shawn Bengtson
Shawn Bengtson,
VP & Chief Investment Officer

By: Dean R. Holdsworth
Dean R. Holdsworth, Director – Mortgage &
Real Estate Investment

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 31st day of MARCH, ~~2020~~ 2021,
by Shawn Bengtson as VP & Chief Investment Officer and Dean R. Holdsworth as Director – Mortgage &
Real Estate Investment, of WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY, a Nebraska
corporation, on behalf of the corporation.

Witness my hand and official seal.

[Seal]

Rodney A Flint
Notary Public

My commission expires: Dec, 16, 2022

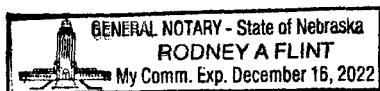


EXHIBIT "A"

(DESCRIPTION OF LAND)

Real property in the City of Omaha, County of Douglas, State of Nebraska, described as follows:

PARCEL 1:

Lot 1, Block 1, Westwood Heights 15th Addition, an Addition to the City of Omaha, Douglas County, Nebraska, except that part described in Plat and Dedication filed July 10, 1969 in Book 478, Page 265 of the Miscellaneous Records, of Douglas County, Nebraska, together with those parts of vacated 132nd Street frontage road and vacated West Center Road frontage road adjacent to said Lot 1, all EXCEPT those parcels described as follows:

Commencing at the Southeast corner of said Lot 1, Block 1, said point being on the Northerly right of way line of Augusta Avenue; thence Northwesterly along the Northerly right of way line of said Augusta Avenue on a curve to the left (having a radius of 530.00 feet) for an arc distance of 160.34 feet; thence South 89°54'16" West on the Northerly right of way line of said Augusta Avenue for 675.54 feet; thence continuing on said Northerly right of way line of said Augusta Avenue along a curve to the left (having a radius of 240.00 feet) for an arc distance of 107.98 feet to the True Point of Beginning; thence North 30°57'06" West for 46.77 feet; thence North 89°59'16" West for 166.18 feet to the East right of way line of the frontage road; thence South 00°00'44" West along said East right of way line for 15.30 feet; thence continuing on said East right of way line along a curve to the left (having a radius of 83.50 feet and long chord bearing South 16°48'55" East for 48.34 feet) an arc distance of 49.05 feet; thence continuing on said East right of way line along a curve to the right (having a radius of 116.50 feet and long chord bearing South 20°31'04" East for 52.91 feet) an arc distance of 53.37 feet; thence continuing on said East right of way line South 32°31'47" East for 20.09 feet to the Northerly right of way line of Augusta Avenue; thence Easterly on said Northerly right of way line along a curve to the left (having a radius of 190.00 feet and a long chord bearing North 61°45'39" East for 98.73 feet) an arc distance of 99.88 feet; thence continuing on said Northerly right of way line along a curve to the right (having a radius of 240.00 feet and long chord bearing North 55°24'50" East for 72.71 feet) an arc distance of 72.99 feet to the True Point of Beginning;

AND EXCEPT

Commencing at the Southeast corner of said Lot 1, Block 1, said point being on the Northerly right of way line of Augusta Avenue; thence Northwesterly on the Northerly right of way line of Augusta Avenue on a curve to the left (radius being 530.00 feet), 160.34 feet to a point of tangency; thence South 89°54'16" West on the Northerly right of way line of said Augusta Avenue, 675.54 feet to a point of curve; thence Southwesterly on the Northerly right of way line of said Augusta Avenue on a curve to the left (radius being 240.00 feet), 107.98 feet; thence North 30°57'06" West, 46.77 feet to the True Point of Beginning; thence continuing North 30°57'06" West, 4.64 feet; thence North 89°59'16" West, 163.76 feet to the East right of way line of the frontage road; thence South 00°00'44" West along the East right of way line for 3.98 feet; thence South 89°59'16" East for 166.18 feet to the Point of Beginning;

AND FURTHER EXCEPT

Commencing at the Southeast corner of said Lot 1, Block 1, said point being on the Northerly right of way line of Augusta Avenue; thence Northwesterly on the Northerly right of way line of said Augusta Avenue on a curve to the left (radius being 530.00 feet), 160.34 feet to the point of tangency; thence South 89°54'16" West on the Northerly right of way line of said Augusta Avenue, 675.54 feet to a point of curve; thence Southwesterly on the Northerly right of way line of said Augusta Avenue on a curve to the left (radius being 240.00 feet), 107.98 feet; thence North 30°57'06" West, 54.36 feet to the point of beginning; thence continuing North 30°57'06" West, 82.05 feet; thence North 89°59'16" West, 120.00 feet; thence South 0°0'44" West, 70.36 feet; thence South 89°59'16" East, 162.22 feet to the point of beginning;

EXHIBIT "A"

Commencing at the Southeast corner of said Lot 1, Block 1, said point being on the Northerly right of way line of Augusta Avenue; thence Northwesterly along said Northerly right of way line of Augusta Avenue on a curve to the left (having a radius of 530.00 feet) for an arc distance of 160.34 feet; thence S89°54'16"W on the Northerly right of way line of said Augusta Avenue for 675.54 feet; thence continuing on said right of way line of Augusta Avenue along a curve to the left (having a radius of 240.00 feet) for an arc distance of 107.98 feet; thence N30°57'06"W for 51.41 feet to the true point of beginning; thence N30°57'06"W for 2.95 feet; thence N89°59'16"W for 162.22 feet to the East right of way line of the frontage road; thence S0°00'44"W along said East right of way line for 2.25 feet; thence S89°59'16"E for 163.76 feet to the true point of beginning.

PARCEL 2:

All together with non-exclusive easement granted by that certain Reciprocal Easement Agreement dated September 10, 1997, filed September 18, 1997 in Book 1222 at Page 575 of the Official Records, of Douglas County, Nebraska.

EXHIBIT "A"