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INSTRUMENT NUMBER

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*Lloyd J. Douciney*

REGISTER OF DEEDS



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## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made as of this 29 day of ~~September~~ 2017, between UMB Bank, n.a. ("Lender") having its principal place of business at 1010 Grand Boulevard, Kansas City, Missouri 64106 and First National Bank of Omaha, a national banking association ("Lessee" or "Tenant"), having an address at 1620 Dodge Street, Stop 1150, Omaha, Nebraska 68197.

### WITNESSETH:

WHEREAS, Lessee is the lessee under that certain Lease Agreement dated the 7th day of January, 2017 (the "Lease") by and between Lessee and City Centre 1, LLC, a Nebraska limited liability company, assignee of La Vista City Centre, LLC ("Lessor" or "Landlord"), wherein Lessor leased to Lessee that certain space in the building (the "Premises") located in the La Vista City Centre, La Vista, Nebraska legally described on Exhibit A attached hereto and incorporated herein by reference (the "Land");

WHEREAS, Lessor executed and delivered its Master Promissory Note (the "Note") to Lender, which Note shall be secured by a lien encumbering the Land pursuant to a Future Advance Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing (as thereafter amended and modified, the "Mortgage"); and

WHEREAS, Lender and Lessee desire to confirm their agreements with respect to the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, Lender and Lessee hereby agree and covenant as follows:

1. **Subordination.** The Lease and all right, title and interest in the Land created thereby (including without limitation, any purchase options, rights of first refusal, lease renewal rights, etc.) are, shall be and shall at all times remain and continue to be subject and subordinate in all respects to the liens, terms, covenants, provisions and conditions of the Mortgage.

2. **No Exercise of Mortgage Remedies Against Lessee.** So long as the Lease has not been terminated on account of Lessee's default that has continued beyond applicable cure periods (an "Event of Default"), Lender shall not name or join Lessee as a defendant in any exercise of Lender's rights and remedies arising upon a default under the Mortgage unless applicable law requires Lessee to be made a party thereto as a condition to proceeding against Lessor or prosecuting such rights and remedies. In the latter case, Lender may join Lessee as a defendant in such action only for such purpose and not to terminate the Lease or otherwise adversely affect Lessee's rights under the Lease or this Agreement in such action.

3. **Nondisturbance and Attornment.** If the Lease has not been terminated on account of an Event of Default by Lessee, then, when any successor Lessor takes title to Lessor's Premises: (a) the successor Lessor shall not terminate or disturb Lessee's possession of Lessee's Premises under the Lease, except in accordance with the terms of the Lease and this Agreement;

(b) the successor Lessor shall be bound to Lessee under all the terms and conditions of the Lease (except as provided in this Agreement); (c) Lessee shall recognize and attorn to the successor Lessor as Lessee's direct Lessor under the Lease as affected by this Agreement; and (d) the Lease shall continue in full force and effect as a direct lease, in accordance with its terms (except as provided in this Agreement), between the successor Lessor and Lessee.

4. ***Lender's Right to Cure.***

4.1 *Notice to Lender.* Notwithstanding anything to the contrary in the Lease or this Agreement, before exercising any termination right or offset right, Lessee shall provide Lender with notice of the breach or default by Lessor giving rise to same (the "Default Notice") and, thereafter, the opportunity to cure such breach or default as provided for below.

4.2 *Lender's Cure Period.* After Lender receives a Default Notice, Lender shall have the same period of time available to Lessor under the Lease in which to cure the breach or default by Lessor. Lender shall have no obligation to cure (and shall have no liability or obligation for not curing) any breach or default by Lessor, except to the extent that Lender agrees or undertakes otherwise in writing.

5. ***Notice of Lien.*** To the extent that the Lease entitles Lessee to notice of the existence of any mortgage and the identity of any lender, this Agreement shall constitute such notice to Lessee with respect to the Mortgage.

6. ***Limitation of Liability.*** Lender shall not, by virtue of this Agreement, the Mortgage or any other instrument to which Lender may be a party, be or become subject to any liability or obligation to Lessee under the Lease or otherwise.

7. ***Priority.***

7.1 *Lease Priority or Subordination Provisions.* Lessee acknowledges and agrees that the Agreement supersedes (but only to the extent inconsistent with) any provisions of this Lease relating to the priority or subordination of the Lease and the interests or estates created thereby to the Mortgage.

7.2 *Other Subordination, Nondisturbance and Attornment Agreements.* Lessee agrees to enter into a subordination, nondisturbance and attornment agreement with any entity which shall succeed Lender with respect to the Land, or any portion thereof, provided such agreement is substantially similar to this Agreement.

8. ***Notices.*** Any notice, consent, request or other communication required or permitted to be given hereunder shall be in writing and shall be: (a) personally delivered; (b) delivered by Federal Express or other comparable overnight delivery service; or (c) transmitted by postage prepaid registered or certified mail, return receipt requested. All such notices, consents, requests or other communications shall be addressed to Lessee or Lender at the address for such party previously set forth in this Agreement, or to such other address as Lessee or Lender shall in like manner designate in writing.

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

10. **General.** This Agreement may not be modified or terminated orally. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns. The term "Lender" shall mean the then holder of any interest in the Mortgage. The term "Lessor" shall mean the then holder of the Lessor's interest in the Lease. The term "person" shall mean any individual, joint venture, corporation, partnership, trust, unincorporated association or other entity. All references herein to the Lease shall mean the Lease as modified by this Agreement and any amendments or modifications to the Lease which are consented to in writing by the Lender. Any inconsistency between the Lease and the provisions of this Agreement shall be resolved in favor of this Agreement.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the parties hereto have executed this Subordination, Non-Disturbance and Attornment Agreement to be effective as of the day and year first stated above.

LENDER:

UMB Bank, n.a.

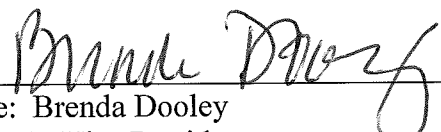
By: \_\_\_\_\_

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

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

LESSEE:

First National Bank of Omaha,  
a national banking association

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

Name: Brenda Dooley

Title: Sr. Vice President

AGREED AND CONSENTED TO:

BORROWER:

City Centre 1, LLC,  
a Nebraska limited liability company

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

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

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

IN WITNESS WHEREOF, the parties hereto have executed this Subordination, Non-Disturbance and Attornment Agreement to be effective as of the day and year first stated above.

LENDER:

UMB Bank, n.a.

By: Charles Gonzalez  
Name: Charles Gonzalez  
Title: Vice President

LESSEE:

First National Bank of Omaha,  
a national banking association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AGREED AND CONSENTED TO:

BORROWER:

City Centre 1, LLC,  
a Nebraska limited liability company

By: \_\_\_\_\_  
Christopher L. Erickson, Manager

ACKNOWLEDGMENTS

STATE OF Missouri )  
 ) ss.  
COUNTY OF Jackson )

On this 28<sup>th</sup> day of September, 2017, to me personally known, appeared Charles Gonzalez who, being by me duly sworn did say that he is the Vice President of UMB Bank, n.a. and that said instrument was signed and delivered on behalf of said Lender by authority of its Board of Directors and he acknowledged said instrument to be the free act and deed of said Lender acting with full power and authority to so bind the Lender.

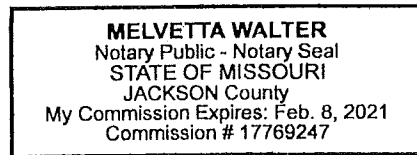
In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.



\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

Feb. 8, 2021  
[SEAL]



STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2017, to me personally known, appeared \_\_\_\_\_ who, being by me duly sworn did say that he is the \_\_\_\_\_ of First National Bank of Omaha, a national banking association, and that said instrument was signed and delivered in behalf of said Lessee by authority of its members, and he acknowledged said instrument to be the free act and deed of said Lessee acting with full power and authority to so bind the Lessee.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_  
[SEAL]

ACKNOWLEDGMENTS

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, to me personally known, appeared \_\_\_\_\_ who, being by me duly sworn did say that he is the \_\_\_\_\_ of UMB Bank, n.a. and that said instrument was signed and delivered on behalf of said Lender by authority of its Board of Directors and he acknowledged said instrument to be the free act and deed of said Lender acting with full power and authority to so bind the Lender.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_  
[SEAL]

STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

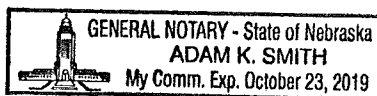
On this 10<sup>th</sup> day of August, 2017, to me personally known, appeared Brenda Dooley who, being by me duly sworn did say that she is the Senior Vice President of First National Bank of Omaha, a national banking association, and that said instrument was signed and delivered in behalf of said Lessee by authority of its members, and he acknowledged said instrument to be the free act and deed of said Lessee acting with full power and authority to so bind the Lessee.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

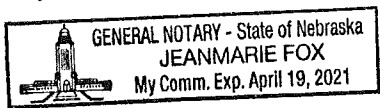
10/23/2019  
[SEAL]



STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

On this 26th day of September, 2017, to me personally known, appeared Christopher L. Erickson who, being by me duly sworn did say that he is the Manager of City Centre 1, LLC, a Nebraska limited liability company, and that said instrument was signed and delivered in behalf of said Borrower by authority of its members, and he acknowledged said instrument to be the free act and deed of said Borrower acting with full power and authority to so bind the Borrower.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.



Jeanmarie Fox  
NOTARY PUBLIC

My Commission Expires:

4/19/21  
[SEAL]



**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

LOT 2 OF THE LA VISTA CITY CENTRE REPLAT 1, BEING A REPLATTING OF LOT 3, LA VISTA CITY CENTRE, A PLATTED AND RECORDED SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER, SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6<sup>TH</sup> P.M., SARPY COUNTY, NEBRASKA.