

FILED AT REQUEST OF AND UPON  
RECORDATION RETURN TO:  
Dorsey & Whitney LLP  
c/o Nathan Seim  
111 South Main Street, Suite 2100  
Salt Lake City, Utah 84111

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

Dated as of: October 7, 2022

Among: Alan Ritchey, Inc. (“**Tenant**”)  
740 South I-35  
Valley View, TX 76272

And: XR Quadrant II, LLC (“**Landlord**”)  
1245 Brickyard Road, Ste. 70  
Salt Lake City, UT 84106

And: U.S. Bank National Association, including successors or assigns (“**Beneficiary**”)  
170 South Main St., Ste. 600  
Salt Lake City, UT 84101  
Attention: Real Estate Banking Division

This Subordination, Non-disturbance and Attornment Agreement (the “**Agreement**”) is made among the above- named Landlord, Tenant and Beneficiary as of the date written above.

**RECITALS:**

- A. Tenant and Landlord are parties to that certain Lease, dated April 1, 2022 (including all amendments, riders and exhibits, as such agreement has been amended or modified from time to time, the “**Lease**”), affecting a portion of certain real property and improvements located in Salt Lake County, Utah, the legal description of which is set forth on the attached Exhibit A (the “**Project**”). The portion of the Project being leased by Landlord to Tenant pursuant to the Lease is referred herein as the “**Leased Premises.**”
- B. Beneficiary has made or may make a loan or loans to Landlord to construct the Project secured by a first priority deed of trust or other security instrument granted by Landlord in favor of Beneficiary (in each case with an assignment of leases and rents) covering the Project (as modified, supplemented, renewed, extended, consolidated, increased or replaced

from time to time, and including any assignment of rents and leases, in each case which may secure future advances made by Beneficiary, collectively the "**Mortgage**").

- C. As a condition to any such loan, Beneficiary has required that the Lease and any mortgage, deed of trust or other security instrument that Tenant may enter into with any lender be subordinate to the Mortgage.
- D. Tenant has requested covenants of non-disturbance from Beneficiary.

### **AGREEMENT**

In consideration of the above recitals and of the promises and mutual covenants hereinafter contained, the parties hereto mutually covenant and agree as follows:

**1. Subordination.** The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of Tenant (or any lender of Tenant) in and to the Leased Premises or Project, including any option or right of first refusal to purchase the Leased Premises or Project or any acquisition of title by Tenant during the term of the Mortgage, or any mortgage or trust deed in favor of any lender of Tenant or any other person or entity, are and shall be subject and subordinate to the Mortgage and to all of the terms and conditions contained therein, including without limitation any future renewals, modifications, restatements, replacements, increases, consolidations and extensions thereof.

**2. Non-Disturbance.** Beneficiary does hereby agree that the rights of Tenant under the Lease shall remain in full force and effect, and its possession of the Leased Premises thereunder shall remain undisturbed by Beneficiary during the term of the Lease, and during any renewal or extension thereof in accordance with its terms; provided Tenant shall have performed and shall continue to perform all of the covenants and conditions of the Lease to be performed by Tenant and shall not be in default thereunder beyond any applicable cure period.

**3. Attornment.** Tenant agrees with Beneficiary that if the interest of Landlord in the Leased Premises or Project shall be transferred to and owned by Beneficiary by reason of foreclosure, deed in lieu of foreclosure or other proceedings brought by it, or by any other manner, Tenant shall be bound to Beneficiary under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Beneficiary were Landlord under the Lease, and Tenant does hereby attorn to Beneficiary as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Beneficiary succeeding to the interest of Landlord. Tenant agrees, however, upon the election of and written request by Beneficiary after Beneficiary receives title to the Leased Premises or Project, to promptly execute an instrument in confirmation of the foregoing provisions, reasonably satisfactory to Beneficiary, in which Tenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

**4. Beneficiary Not Bound by Certain Actions or Agreements.** Tenant agrees with Beneficiary that if Beneficiary shall succeed to the interest of Landlord under the Lease, Beneficiary shall not be (a) liable for any action or omission of any landlord under the Lease prior to Beneficiary becoming landlord thereunder ("**Prior Landlord**"), or (b) subject to any offsets or defenses which Tenant might have against any Prior Landlord, or (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any Prior Landlord, or (d) bound by any security deposit which Tenant may have paid to any Prior

Landlord, unless such deposit is in an escrow fund available to Beneficiary or was received by Beneficiary from any Prior Landlord, or (e) bound by any amendment or modification of the Lease made after the date hereof without Beneficiary's consent, or (f) bound by any provision in the Lease which obligates Landlord to erect or complete any building or to perform any construction work or to make any improvements to the Leased Premises or Project. Landlord and Tenant agree that they will not amend the Lease without Beneficiary's prior written consent. Tenant further agrees with Beneficiary that Tenant will not voluntarily subordinate the Lease to any lien or encumbrance without Beneficiary's prior written consent. Notwithstanding anything to the contrary herein set forth, in the event Beneficiary becomes the owner of the Leased Premises or Project as a result of a foreclosure, deed in lieu of foreclosure or otherwise, Beneficiary shall not be bound by any provision of the Lease relating to (a) the application of insurance or condemnation proceeds or the restoration of the Leased Premises or Project by the Landlord in the event of a casualty loss thereto or a taking thereof, or (b) restrictions on the use of other properties owned by Landlord for purposes which compete with Tenant. Beneficiary shall have the option either to use any such insurance or condemnation proceeds to restore the Leased Premises or Project in accordance with the Lease or with the provisions of the Mortgage or terminate the Lease and retain all such proceeds as its own.

**5. Notice; Beneficiary's Right to Perform Under Lease.** In the event that Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to Beneficiary at the time notice is given to Landlord, and Beneficiary shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including without limitation any action to terminate, rescind or void the Lease or to withhold any rental thereunder, for a period of twenty (20) days after receipt of such written notice thereof by Beneficiary with respect to any such default capable of being cured by the payment of money and for a period of thirty (30) days after receipt of such written notice thereof by Beneficiary with respect to any other such default (provided, that in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured within such thirty (30) day period because of the nature of such default or because Beneficiary requires time to obtain possession of the Leased Premises or Project in order to cure the default, if Beneficiary shall proceed promptly to attempt to obtain possession of the Leased Premises or Project, where possession is required, and to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity).

**6. No Amendment without Beneficiary's Consent; No Conveyance or Encumbrance of Tenant's Estate.** Until the Mortgage has been fully released, satisfied or reconveyed, (a) the Lease shall not be amended without the prior written consent of Beneficiary, and (b) Tenant's estate in the Leased Premises or Project shall not be conveyed, encumbered, mortgaged or otherwise granted to any lender or other person or entity without the prior written consent of Beneficiary. To the extent Tenant's estate in the Leased Premises or Project is conveyed, encumbered, mortgaged or otherwise granted to any lender or other person or entity, such conveyance, encumbrance or security interest of such third party shall at all times be junior, inferior and subordinate to Beneficiary's interest under the Mortgage; provided that nothing in the foregoing sentence shall be construed as an authorization for Tenant to convey, mortgage or otherwise grant a security interest without Beneficiary's prior written consent. Tenant represents and warrant to Beneficiary that Tenant has not previously conveyed, transferred, mortgaged or granted a security interest in any of Tenant's leasehold or other rights to any lender or other person or entity.

**7. Successors and Assigns; Certain Defined Terms.** The Agreement shall bind and inure to the benefit of all parties hereto, their successors and assigns. As used herein the term "Tenant" shall include Tenant herein specifically named and any party who shall succeed

to Tenant's interest under the Lease; the words "foreclosure" and "foreclosure sale" as used herein shall include judicial and non-judicial foreclosure and shall also be deemed to include the acquisition of Landlord's estate in the Project by voluntary deed (or assignment) in lieu of foreclosure, and the word "Beneficiary" shall include Beneficiary herein specifically named and any of its successors and assigns, including anyone who shall succeed to Landlord's interest in the Leased Premises or Project by, through or under foreclosure of the Mortgage, deed in lieu of foreclosure or otherwise.

**8. Governing Law; Jurisdiction; Waiver of Jury Trial.** The Agreement shall be governed by the law of the state in which the Project is located, and the federal and state courts of such state will have exclusive jurisdiction to hear any claims or disputes arising under or relating to this Agreement. Each party to this Agreement waives any right to a jury trial with respect to any claim or dispute arising under or relating to this Agreement.

**9. No Modification.** The Agreement shall not be modified or amended except in writing signed by the parties hereto. The use of the neuter gender in the Agreement shall be deemed to include any other gender, and words in the singular number shall be held to include the plural, when the context requires.

**10. Electronic Records.** Beneficiary may, on behalf of Tenant, create a microfilm or optical disk or other electronic image of the Agreement. Beneficiary may store the electronic image of such Agreement in its electronic form and then destroy the paper original as part of Beneficiary's normal business practices, with the electronic image deemed to be an original.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned executed this Agreement as of the date first above written.

TENANT:

Alan Ritchey, Inc.

By: [Signature]  
Name: Robby Ritchey  
Title: President, CEO

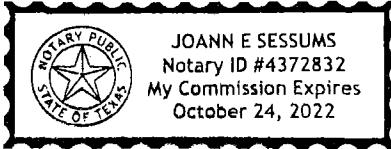
TENANT NOTARIZATION

STATE OF TEXAS )  
COUNTY (and/or CITY) OF COOKE ) ss.

On May 18, 2022, before me appeared Robby Ritchey who, being by me duly sworn, did say that he/she is the President, CEO of Alan Ritchey, Inc. and that said instrument was signed on behalf of said entity.

(Notarial Seal)

[Signature]  
Notary Public  
Printed Name: Joann Sessums  
My term expires: 10-24-22



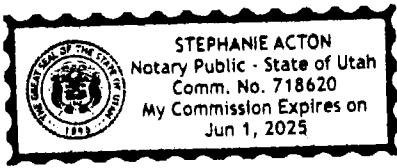
[Tenant Signature Page to SNDA]



STATE OF Utah )  
COUNTY OF Salt Lake City )ss.

On May 31st, 2022, before me appeared Paul Ritchie who, being by me duly sworn, did say that he is the Manager of The Ritchie Group, L.C., the Manager of XR Quadrant II, LLC and that said instrument was signed on behalf of said entity.

(Notarial Seal)



Stephanie Acton  
Notary Public  
Printed Name: Stephanie Acton  
My term expires: 6-1-25





**EXHIBIT A**

**LEGAL DESCRIPTION**

PARCEL 1:

LOT 2, THE QUADRANT - PLAT "A", ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

PARCEL 1A:

EASEMENTS AS SET FORTH BY DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS RECORDED JANUARY 04, 2021 AS ENTRY NO. 13519987 IN BOOK 11092 AT PAGE 6684 OF OFFICIAL RECORDS.

AS AMENDED BY THAT CERTAIN AMENDED AND RESTATED DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS RECORDED JUNE 14, 2021 AS ENTRY NO. 13690259 IN BOOK 11190 AT PAGE 1486 OF OFFICIAL RECORDS.

Said property is also known by the street address of:

6796 West 1000 North or 6797 West 1400 North or 1194 North 6880 West, Salt Lake City, Utah 84116