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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
2/17/2021 11:34:00 AM
FEE \$40.00 Pgs: 13
DEP eCASH REC'D FOR COTTONWOOD TITLE INS

06-392-0001
06-392-0002

Above area for recorder's use only

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SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

BY AND AMONG

FCA US LLC
Tenant

RIMINI PROPERTIES, LLC
Landlord

AND

LIFE INSURANCE COMPANY OF THE SOUTHWEST
Lender

*Recording requested by and
after recording please return to:*

Law Offices of F. J. von Turkovich, PC
One National Life Drive, M-230
Montpelier, VT 05604

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

AGREEMENT made effective as of the 17 day of February, 2021, by and among the following persons or entities hereinafter referred to collectively, as the "**Parties**":

FCA US LLC, a Delaware limited liability company ("**Tenant**");

RIMINI PROPERTIES, LLC, a Utah limited liability company ("**Borrower**");

RIMINI PROPERTIES, LLC, a Utah limited liability company, including successors and assigns including Borrower ("**Landlord**"); and

LIFE INSURANCE COMPANY OF THE SOUTHWEST, a Texas corporation ("**Lender**").

WITNESSETH:

WHEREAS, the above named persons or entities are Parties to a certain lease agreement as follows:

"**Lease**": That certain Commercial and Industrial Lease between Landlord and Tenant dated November 4, 2019

"**Property**": Parrish Creek Business Park – Buildings A & E, 1040 N 950 W, Centerville, UT

WHEREAS, Lender intends to make a loan ("**Loan**") to Borrower as evidenced by certain documents and agreements, including, *inter alia*, a certain Promissory Note ("**Note**"); and a Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing ("**Mortgage**") and all renewals, modifications, consolidations, replacements and extensions thereof. The aforementioned documents together with all other instruments or agreements that now or hereafter evidence or secure the Loan are collectively referred to herein as the "**Loan Documents**"; and

WHEREAS, Tenant occupies certain premises consisting of the two South Units of Building E located at the Property described above, under the Lease (the "**Premises**"); and

WHEREAS, Borrower has acquired, or intends to acquire prior to the closing of the Loan, all of the right, title and interest of Landlord under the Lease; and

WHEREAS, Lender requires, as a condition to the funding of the Loan, that the lien of the Lease be subordinated to the lien or charge of the Loan Documents; and

WHEREAS, Tenant desires that Lender recognize Tenant's rights under the Lease and assume Landlord's obligations under the Lease (subject to the terms of this Agreement) in the

event of a foreclosure of the Mortgage or other transfer of Landlord's right, title and interest in the Property and provide for the nondisturbance of Tenant as set forth herein; and

WHEREAS, Tenant is willing to attorn to Lender or other purchaser at such foreclosure or transfer provided its rights under the Lease are recognized and provided that Lender assumes Landlord's obligations (subject to the terms of this Agreement); and

WHEREAS, Landlord, in conformance with its obligations under the Loan, is willing to fulfill its duties and obligations as set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The Parties agree that the foregoing recitals are true and correct and incorporated herein by this reference.
2. **Subordination.** Subject to the terms of this Agreement, Tenant agrees that the lien of the Lease and any extensions, renewals, replacements or modifications thereof and all right, title and interest of Tenant in and to the Premises and the Property are now and shall in the future be subject and subordinate to the lien and charge of the Loan Documents including, without limitation, all amendments, renewals, increases, modifications, spreaders, consolidations, replacements and extensions thereof and to all sums and obligations secured thereby with the same force and effect as if the Mortgage and the other Loan Documents had been executed, delivered and recorded prior to the execution and delivery of the Lease. Tenant further acknowledges that, in making disbursements of the Loan, Lender has no obligation or duty to see to the application of such proceeds by the person or persons to whom such proceeds are disbursed by Lender, and any application or use of such proceeds will not defeat the subordination that Tenant makes in this Agreement, in whole or in part.
3. **Non-Disturbance.** Lender agrees that so long as Tenant is not in default in the performance of its obligations under the Lease beyond any applicable grace or notice and cure periods, other than de minimis, non-financial defaults that will not adversely affect the Property, the Premises or Lender's lien or materially reduce the value of the Lease as collateral for the Loan, (a) Tenant's possession and occupancy of the Premises and its rights and privileges under the Lease shall not be diminished or interfered with by Lender in the exercise of any of its rights under the Loan Documents, and (b) Lender shall not join Tenant as a party defendant in any foreclosure proceeding unless such joinder is necessary in order to comply with legal requirements applicable to such foreclosure and then only for such purpose and not for the purpose of terminating the Lease. If Lender joins Tenant in any judicial foreclosure proceeding at any time during which Tenant is not in default of its obligations under the Lease beyond any applicable grace or notice and cure periods as set forth above, Lender shall reimburse Tenant for any and all reasonable legal expenses incurred by Tenant in defending the same.
4. **Attornment.** Lender and Tenant agree that upon change in ownership of the Property by reason of the foreclosure of the Mortgage or the acceptance of a deed in lieu of foreclosure, or

otherwise, the Lease shall not be terminated or affected thereby but shall continue in full force and effect upon all of the terms, covenants and conditions set forth therein and Tenant agrees to attorn to Lender or any other purchaser at a foreclosure sale, or their respective successors or assigns, for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option under the Lease, and Tenant does hereby attorn to Lender or such purchaser, successor or assign as its landlord, said attornment to be effective and self-operative without the need for execution of any further instrument on the part of any of the Parties hereto, immediately upon such succession to the interests of Landlord in the Premises. Tenant agrees, however, upon written demand by Lender or any such purchaser, successor or assignee, within thirty (30) days after such demand, to execute an instrument in confirmation of the foregoing provisions, reasonably satisfactory for such purpose, in which Tenant shall acknowledge such attornment and set forth the terms and status of its tenancy.

5. Lender's Right to Subordinate Mortgage. Notwithstanding anything to the contrary set forth above, Lender may at any time subordinate the Mortgage to the Lease in whole or in part, without any need to obtain Tenant's consent, by execution of documents subordinating the Mortgage to the Lease to the extent set forth in such documents, and thereupon, the Lease shall be deemed prior to the Mortgage without regard to this Agreement or any other instrument, or the dates of their execution, delivery or recording.

6. Lender's Liability under Lease. Lender hereby consents to the Lease and all provisions thereof. Tenant agrees that if Lender or any purchaser, successor or assignee shall succeed to the interests of Landlord under the Lease (Lender, together with any such purchaser, successor, or assignee, being sometimes referred to herein as "**Purchaser**"), neither Lender nor such Purchaser shall be: (a) liable for Landlord's failure to perform any of its obligations under the Lease which have accrued prior to the date on which Lender or any such Purchaser shall become the owner of the Property, provided the foregoing shall not relieve Purchaser from responsibility for failure of Landlord to perform any of its obligation under the Lease which failure continues after Purchaser becomes the owner of the Property (each a "**Continuing Default**"), in which event Purchaser's responsibility for such failure shall be determined as if the failure had first arisen upon Purchaser becoming the owner of the Property; (b) subject to any setoffs, defenses, abatements or counterclaims (collectively, "**Tenant Claims**") which shall have accrued to Tenant against Landlord prior to the date upon which such Purchaser shall obtain record title to the Property, except for Tenant Claims that arise from Continuing Defaults, in which event Purchaser's responsibility for such Continuing Defaults shall be determined as if such Continuing Defaults had first arisen upon Purchaser becoming the owner of the Property and no further notice period or opportunities to cure shall apply; (c) liable for the return of rental security deposits, if any, paid by Tenant to Landlord in accordance with the Lease unless such sums are actually received by Lender or any such Purchaser; (d) bound by any payment of rents, additional rents or other sums which Tenant may have paid more than one month in advance of the date when due under the Lease to any prior Landlord unless such sums are (i) actually received or such prepayment shall have been expressly approved of by Lender or any such Purchaser written consent, or (ii) made in accordance with the Lease; (e) bound by any Material Modification (as defined below) of the Lease made without Lender's or, after such succession, any such Purchaser's, prior written consent (which consent shall not be unreasonably withheld, conditioned, or delayed); or (f) bound by any assignment of the Lease or sublease of the Premises, or any portion thereof made without Lender's

or, after any such succession, any such Purchaser's prior written consent, except for such assignment, sublease or license of the Premises which, under the express provisions of the Lease, Tenant is entitled to make without the consent of the Landlord. "Material Modification" shall mean any amendment or modification to the Lease that would reduce the term of the Lease, reduce the rent or other amounts payable by Tenant under the Lease or otherwise materially reduce the benefits to, or materially increase the obligations of, Landlord under the Lease; provided that any amendments or modifications entered into to memorialize Tenant exercising any of its rights under the Lease shall not be considered a Material Modification and shall not require Lender or Purchaser's consent. If Lender's consent is required for a Material Modification, such consent shall be requested by either Tenant or Landlord in writing and Lender shall use reasonable efforts to respond to such request within ten (10) days of such request. If Lender does not respond to such request within such ten (10) day-time limit, then Tenant or Landlord, as applicable, shall be required to deliver a second request for approval to Lender by certified mail. Such second request shall advise Lender that if it does not respond to the second request by the end of the 5th business day following receipt of such second request, then Landlord and Tenant shall be permitted to enter into such Material Modification and if Lender does not respond to the second request by the end of the 5th business day following receipt of such second request, then Landlord and Tenant shall be permitted to enter into such Material Modification.

7. Assignment of Rents; Notice to Tenant. Tenant acknowledges that Borrower has or will have, as part of its Loan transaction with Lender, assigned the Lease to Lender and that Borrower as Landlord will have, a license to collect the rent due thereunder. Tenant agrees that thirty (30) days' following Tenant's receipt of: (a) written notice from Lender (i) declaring that Lender has the right to collect rents as provided in the Loan Documents and (ii) requesting that the rent and all other sums due Landlord under the Lease be paid to Lender or its designees, and (b) a copy of an executed and recorded Assignment of Leases and Rents from Borrower in favor of Lender or a court order permitting Lender to collect the rents from the Property, Tenant will honor such request and pay such sum directly to Lender or its designee. Landlord irrevocably consents to Tenant's reliance on such notice from Lender without the necessity of any further consent or direction from Landlord and notwithstanding any contrary instructions that Landlord may purport to give, and Landlord shall hold Tenant harmless for performance thereunder. Such payment by Tenant will continue until the first to occur of the following: (a) the Lease expires pursuant to its terms (including any extensions or renewals exercised by Tenant) and no further amounts are payable by Tenant thereunder; (b) Lender gives Tenant written notice that the rents and other payments are to be paid to Landlord; or (c) Lender gives Tenant written notice that a Purchaser has succeeded to the interests of Landlord and Lender under the Lease, after which time the rent and all other sums due under the Lease will be paid as directed by such Purchaser in writing. Payment of rents to Lender as provided for hereunder shall not be deemed to: (i) cause Lender to succeed to or to assume any obligations or responsibilities of Landlord under the Lease, or (ii) relieve Landlord of any obligations under the Lease; except where Lender or any purchaser, successor or assignee has succeeded to ownership of the Property.

8. Option or Right of First Refusal to Purchase. Any option or rights contained in the Lease or otherwise existing in favor of Tenant to acquire title to any or all of the Property are hereby subordinated to the lien and rights of Lender under the Loan Documents and acquisition of any or

all of the Property made by Tenant during the term of the Loan Documents shall be made subordinate and subject to the Loan Documents.

9. Default by Landlord; Lender's Right to Notice and Opportunity to Cure. Tenant agrees that it will simultaneously send to Lender copies of all default notices, which Tenant may serve on Landlord under the Lease. No such default notice to Landlord shall be effective against Lender unless a copy is also served on Lender at the address as set forth below. After receipt of written notice from the Tenant, before the Lease is terminated by any default or failure to act on the part of Landlord, Lender shall have thirty (30) days beyond the time permitted for Landlord to cure a default under the Lease or if the default is of such nature to reasonably require more than thirty (30) days to cure, Lender shall then be permitted such additional time as is reasonably necessary to effect such cure (up to, but not in excess of a total of ninety (90) days following a default notice). Lender's cure period shall continue for such additional time as may be required for Lender to (i) obtain possession and control of the Property, or (ii) obtain the appointment of a receiver and give such receiver a reasonable period of time to cure the default; provided that the Lender's cure period shall not exceed a total of ninety (90) days following a default notice.

10. No Prepayment of Rent or Lease Amendment or Termination without Lender's Consent. Landlord and Tenant agree (a) not to make or accept prepayment of rent more than one month in advance of the date when due, unless such prepayment is made in accordance with the Lease, (b) not to make any Material Modification of the Lease and, (c) that no person obligated thereunder may be released from liability without Lender's express written consent. The Parties agree that the Lease shall not be terminated consensually by Landlord and Tenant without Lender's express written consent. If Lender's consent is required for a Material Modification or termination such consent shall be requested by either Tenant or Landlord in writing and Lender shall use reasonable efforts to respond to such request within ten (10) days of such request. If Lender does not respond to such request within such ten (10) day-time limit, then Tenant or Landlord, as applicable, shall be required to deliver a second request for approval to Lender by certified mail. Such second request shall advise Lender that if it does not respond to the second request by the end of the 5th business day following receipt of such second request, then Landlord and Tenant shall be permitted to enter into such Material Modification or termination and if Lender does not respond to the second request by the end of the 5th business day following receipt of such second request, then Landlord and Tenant shall be permitted to enter into such Material Modification or termination.

11. Compliance with Laws and Regulations. Tenant agrees to abide by all laws, ordinances, rules and regulations, including those in regard to hazardous materials and toxic substances as provided for by state or federal law, and in accordance with the Lease.

12. Satisfaction of Obligation to Provide Non Disturbance Agreement. Tenant agrees that this Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement.

13. Notice. "Notice" means any notice, demand, or other communication or document to be provided under this Agreement or the Lease. All Notices shall be in writing and shall be given to the Party at its address set forth below or such other address as the Party may later specify for that

purpose by Notice to the other Party. Each Notice shall, for all purposes, be deemed given and received:

- a. If hand delivered to a Party against receipted copy, when the copy of the Notice is receipted;
- b. If given by a nationally recognized and reputable overnight delivery service, on the day on which the Notice is actually received by the Party at the address of the Party as specified above; or
- c. If given by certified mail, return receipt requested, postage prepaid, two (2) business days after it is posted with the United States Postal Service, at the address of the Party as specified below:

If Notice is tendered under the provisions of this Agreement and is refused by the intended recipient, the Notice shall nonetheless be considered to have been given and shall be effective as of the date such notice was refused.

Landlord: RIMINI PROPERTIES, LLC
c/o of Tom Stuart Construction
259 South Riverbend Way, Suite 100
North Salt Lake, UT 84054
Attn: Thomas D. Stuart

With a copy to:
BENNETT TUELLER JOHNSON & DEERE
3165 East Millrock Drive, Suite 500
Salt Lake City, Utah 84121
Attn: Stephen Tumblin

Tenant: FCA US LLC
1000 Chrysler Drive
CIMS 485-12-78
Auburn Hills, MI 48326
Attn: Manager, Corporate Real Estate

With a copy to:
FCA US LLC
1000 Chrysler Drive
CIMS 485-12-78
Auburn Hills, MI 48326
Attn: Counsel, Real Estate
Office of General Counsel

Lender: LIFE INSURANCE COMPANY OF THE SOUTHWEST
c/o Sentinel Asset Management, Inc.
One National Life Drive, M501
Montpelier, VT 05604
Attn: Mortgage Servicing

With a copy to:
Law Department
NATIONAL LIFE INSURANCE COMPANY
One National Life Drive, M-500
Montpelier, VT 05604

14. Definitions. The term "Lender" as used herein shall include the Lender, the successors and assigns of Lender and any other person, party or entity which shall become the owner of the Property by foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise. The term "Landlord" as used herein shall mean and include the present Landlord under the Lease and such Landlord's predecessors and successors in interest under the Lease, but shall not mean or include Lender. The term "Property" as used herein shall mean the Property, the improvements now or hereafter located thereon, the rights and appurtenances thereto, and the estates therein encumbered by the Mortgage.

15. No Oral Modifications. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the Parties hereto or their respective permitted assigns or successors in interest.

16. Governing Law. This Agreement shall be deemed to be a contract entered into pursuant to and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the state where the Property is located.

17. Inapplicable Provisions; Survival. If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such provision.

18. Benefit and Burden of Agreement. This Agreement shall inure to the benefit of the Parties hereto, their successors and permitted assigns; provided, however, that in the event of the assignment or transfer of the interest of Lender, all obligations and liabilities of Lender under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the Party to whom Lender's interest is assigned or transferred.

19. Agreement to Run with Land. This Agreement and the covenants herein contained are intended to run with and bind all land affected hereby.

20. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

21. Duplicate Originals; Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original instrument and all of which together shall constitute a single Agreement and a telecopy or facsimile transmission thereof shall be binding on the party or Parties whose signatures appear thereon.

22. Effective Date. In the event that this Agreement is executed and delivered by the Parties without entering an effective date, the effective date will be deemed to be the date on which the Loan proceeds were disbursed to the Landlord. If the effective date is left blank, the Parties hereto hereby specifically authorize Lender to enter the date on which the Loan proceeds were disbursed as the effective date.

(Execution pages follow)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first above written.

LANDLORD

RIMINI PROPERTIES, LLC,
a Utah limited liability company

By: [Signature]
Signature

Its Manager [Title] and Duly
Authorized Agent

Tom Stuart
Print name of signer

STATE OF Utah)
COUNTY OF Davis)

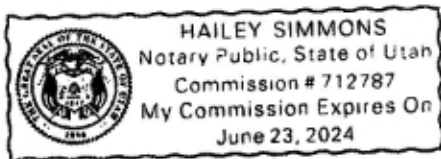
This instrument was acknowledged before me on this 12th day of February, 2021, by Tom Stuart, the Manager of Rimini Properties, to me known, who personally appeared before me and who, being duly sworn, acknowledged that he/she executed the foregoing instrument as his/her free act and deed and the free act and deed of said RIMINI PROPERTIES, LLC.

Before me, [Signature]

Notary Public, State of Utah

Hailey Simmons
Print Name

My Commission Expires: 6-23-2024



TENANT

FCA US LLC, a Delaware limited liability company

By: Gretchen Sonego
Signature

Its Director-Treasury and Duly Authorized Agent

Gretchen Sonego

STATE OF Michigan)
COUNTY OF Oakland)

This instrument was acknowledged before me on this 12th day of February, 2021, by Gretchen Sonego, the Director Treasury of FCA US LLC, to me known, who personally appeared before me and who, being duly sworn, acknowledged that he/she executed the foregoing instrument as his/her free act and deed and the free act and deed of said FCA US LLC.

Before me,

Pamela Marrocco

Notary Public, State of Michigan

Pamela Marrocco

Print Name

My Commission Expires: June 9, 2024

PAMELA MARROCCO
Notary Public, Oakland County, Michigan
My Commission Expires June 9, 2026
Acting in the County of Oakland



LENDER

LIFE INSURANCE COMPANY OF THE
SOUTHWEST

By: Paul D. Wolters
Paul D. Wolters
Duly Authorized Representative

STATE OF VERMONT)
)
COUNTY OF WASHINGTON)

On this 11 day of February, 2021, before me, a Notary Public of the State of Vermont, personally appeared Paul D. Wolters, duly authorized representative for LIFE INSURANCE COMPANY OF THE SOUTHWEST, known to me, and acknowledged that he, being authorized to do so, executed the foregoing document for the purposes therein contained as his free act and deed and the free act and deed of LIFE INSURANCE COMPANY OF THE SOUTHWEST.

Before me,

M. Louise Gillespie
Notary Public

Mary L. Gillespie
Print Name
My Commission Expires: 1/31/23

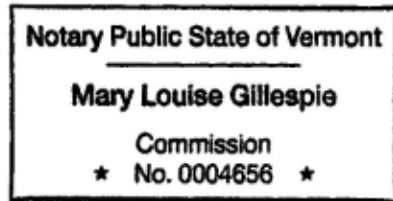


EXHIBIT A
PROPERTY DESCRIPTION

PARCEL 1:

Lots 1 and 2, PARRISH CREEK SUBDIVISION, according to the official plat thereof, on file and of record in the office of the Davis County Recorder, recorded December 29, 2017 as Entry No. 3067633 in Book 6921 at Page 119.

PARCEL 1A:

Appurtenant easements as contained in the Declaration of Covenants, Conditions, Restrictions and Easements for Parrish Creek, recorded October 31, 2017 as Entry No. 3055346 in Book 6882 at Page 1640.

Tax Id No.: 06-392-0001 and 06-392-0002