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Doc#: 2208817183 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 03/29/2022 03:25 PM Pg: 1 of 8

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Trader Joe's East
c/o Trader Joe's Company
800 South Shamrock Avenue
Monrovia, CA 91016
Attn: Real Estate Department

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement"), dated the 24th day of February, 2022, by and between WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY, a Nebraska corporation (hereinafter called "Lender"), LINCOLN GRACE INVESTMENTS LLC, an Illinois limited liability company, (hereinafter called "Landlord") and TRADER JOE'S EAST INC., a Massachusetts corporation (hereinafter called "Tenant").

WITNESSETH:

WHEREAS, Tenant and Landlord are parties to that certain lease (the "Lease") dated October 17, 2001 pertaining to certain premises within the real property described on Exhibit "A" attached hereto and by this reference incorporated herein (the "Shopping Center"); and

WHEREAS, Lender has made a loan, which loan is secured by, among other things, that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, recorded as Document Number 2208418355, in the office of the Cook County, Illinois Recorder (the "Mortgage"); and

WHEREAS, Tenant wishes to be assured of its continued use and occupancy of the Shopping Center including the Common Area (defined in the Lease) under the terms of the Lease, notwithstanding any breach or default by Landlord or the exercise of any remedies under the Mortgage.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. SUBORDINATION. The Lease is and shall be subject and subordinate to the lien of the Mortgage referenced above, and to all renewals, modifications, consolidations, replacements and extensions thereof (collectively, the "Mortgage"). Notwithstanding the foregoing subordination or the terms and provisions contained in the Mortgage to the contrary, Lender agrees that all condemnation awards and proceeds of insurance affecting the Shopping Center or any of Tenant's interests under the Lease shall be used, distributed and applied to Landlord's repair and restoration obligations for the Property for such condemnation or casualty event in the manner provided and to the extent set forth in the Lease. In no event shall any of Tenant's trade fixtures,

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inventory, equipment, furniture and furnishings, accounts, books or records or other assets be or become subject or subordinate to the lien in favor of Lender.

2. NONDISTURBANCE. Tenant's possession, use and enjoyment of the Premises and the Shopping Center shall not be interfered with, disturbed or diminished, or otherwise affected in any manner as a result of any act or omission of Landlord, or any exercise of any remedies under the Mortgage, including a Foreclosure (defined below) and all rights and privileges of Tenant under the Lease, and any renewals, modifications, or extensions thereof, shall be recognized by Lender and any Successor Landlord (defined in Paragraph 3 below). As used in this Agreement, "Foreclosure" means any non-judicial or judicial foreclosure or other enforcement of the remedies of the Mortgage, or any deed or other transfer in lieu thereof. Lender shall not join Tenant as a party in any Foreclosure unless such joinder shall be required by law and Tenant shall not thereby be subjected or exposed to any liability, cost or expense, and such joinder shall not result in the termination of the Lease or disturb Tenant's possession or use and enjoyment of the Premises.

3. ATTORNMEN. In the event of Foreclosure or other conveyance under the Mortgage, the Shopping Center shall be conveyed subject to the Lease and this Agreement, and Tenant agrees that it shall attorn to and recognize any purchaser at a foreclosure sale under the Mortgage, and any transferee who acquires the Shopping Center by deed in lieu of foreclosure or any other realization proceeding (a "Successor Landlord"), as its landlord under the Lease upon the same terms and conditions set forth in the Lease, and, in such event, Successor Landlord shall be bound as landlord under the Lease to Tenant under all the terms, covenants and conditions under the Lease.

4. PERFORMANCE BY TENANT. In the event that Tenant receives any notice from Lender or any Successor Landlord to pay rent or other sums or render any other performance under the Lease to such Lender or Successor Landlord, Tenant may render performance in accordance with such notice without any duty of inquiry and despite any knowledge or notice to the contrary with the same force and effect as if such payment or performance were rendered to Landlord, and Landlord hereby releases and discharges Tenant of and from any liability to Landlord resulting from Tenant's payment of such rent to Lender or any Successor Landlord in accordance with this Agreement or Lender's or any Successor Landlord's notice or instructions from Lender or any Successor Landlord.

5. SUCCESSOR LANDLORD LIABILITY. In the event of Foreclosure or other conveyance under the Mortgage, Tenant shall have the same remedies against Successor Landlord for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord, provided, however, Lender as a Successor Landlord shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord), except to the extent such act or omission is continuing at the time Lender acquires title to the Shopping Center or unless Tenant shall have given notice of such act or omission to Lender (whether or not Lender elected to cure or remedy such act or omission);

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(b) subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord) except to the extent the condition under which such offset or defense arose is continuing at the time Lender acquires title to the Shopping Center or unless Tenant shall have given notice of the state of facts or circumstances under which such offset or defense arose to Lender (whether or not Lender elected to cure or remedy such act or omission), provided, however, Lender shall be subject to offsets that are expressly permitted in the Lease;

(c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord) except to the extent such advance rent or additional rent is expressly required under the Lease;

(d) bound by any security deposit which Tenant may have paid to any prior landlord (including Landlord), unless such deposit is received by or available to Lender or party who was the holder of the Mortgage at the time of a Foreclosure or other conveyance under the Mortgage; or

(e) bound by any amendment or modification of the Lease made without the consent of the party who was the holder of the Mortgage at the time of such amendment or modification, unless such amendment or modification was subsequently affirmed by the Mortgage at the time of such amendment or modification or Lender (amendments or modifications that are expressly provided for in the Lease shall be excluded from this Paragraph 5(e)). Lender's failure to approve or disapprove any proposed amendment or modification within fifteen (15) days after request shall be deemed approval of such amendment or modification by Lender.

6. GOVERNING LAW. The laws of the state in which the Shopping Center is located shall govern the validity, performance and enforcement of this Agreement.

7. SUCCESSORS AND ASSIGNS. The covenants, terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

8. NOTICES. Any notice required or permitted to be given hereunder shall be in writing and may be served personally, or by certified mail, return receipt requested, or by reputable overnight delivery service (with proof of receipt available) addressed to the parties at the following addresses:

TENANT:

Trader Joe's East Inc.
c/o Trader Joe's Company
800 S. Shamrock Avenue
Monrovia, CA 91016
Attn: Real Estate Department

With a copy to (which shall not constitute notice):

realestateteam@traderjoes.com

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LENDER: Woodmen of the World Life Insurance Society
Woodmen Tower
1700 Farnam Street
Omaha, NE 68102
Attn: Investment Division

Each party may designate a different address for the receipt of notices by providing written notice thereof to the other party, provided that in the event of an assignment of the Lease by Tenant without a novation and full release of the originally named Tenant listed above, the originally named Tenant must receive duplicate notices in order for a notice to be effective as to the Tenant.

9. ATTORNEYS' FEES. If there is any litigation between either of the parties to this Agreement to enforce or interpret any provisions hereof or rights arising hereunder, the losing party in such litigation, as determined by the court, shall pay to the prevailing party, as determined by the court, all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the prevailing party in connection with such litigation, with such attorneys' fees to be determined by the court sitting without a jury.

10. NOTICE OF DISCHARGE. Borrower shall give notice to Tenant of the reconveyance or other release of the Mortgage within thirty (30) days of the date the reconveyance or other release is recorded. Upon such reconveyance or other release, this Agreement shall be of no further force or effect.

11. MODIFICATION. This Agreement shall not be modified, altered, changed or amended in any manner other than by a written agreement signed by the parties hereto or their respective successors in interest.

12. AUTHORITY; CAPACITY. Each party to this Agreement covenants, warrants and represents that it has full right, power and authority to enter into this Agreement and each person signing this Agreement covenants, warrants and represents that such person has the power and due authority to execute this Agreement in the capacity stated and to bind the entity for which such person is signing.

[Signature Page Follows]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 23 day of March, 2022.

LENDER

WOODMEN OF THE WORLD LIFE INSURANCE SOCIETY
A Nebraska corporation

By: Shawn Bengtson
Shawn Bengtson
VP & Chief Investment Officer

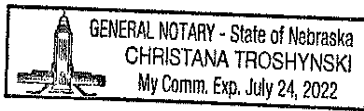
By: Dean R. Holdsworth
Dean R. Holdsworth, Director – Mortgage &
Real Estate Investment

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 23 day of March, 2022, 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]




Christana Troshynski
Notary Public

My commission expires: July 24, 2022

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TENANT

TRADER JOE'S EAST INC.,
a Massachusetts corporation

By 
Mitchell Nadler
SVP/Chief Financial Officer

ACKNOWLEDGMENT

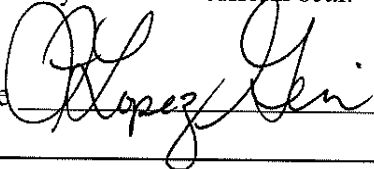
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

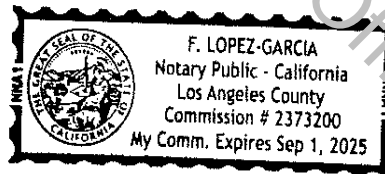
State of California)
) ss.
County of Los Angeles)

On March 2, 2021, before me, F. Lopez-Garcia, Notary Public, personally appeared Mitchell Nadler, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 



(Seal)

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LANDLORD

LINCOLN GRACE INVESTMENTS, L.L.C.,
an Illinois limited liability company

By: Jeffrey S. Gumbiner
JEFFREY S. GUMBINER, the trustee of the
JEFFREY S. GUMBINER I REVOCABLE
TRUST created pursuant to the Declaration of
Trust Establishing Jeffrey S. Gumbiner I
Revocable Trust dated September 9, 2004, its
authorized member

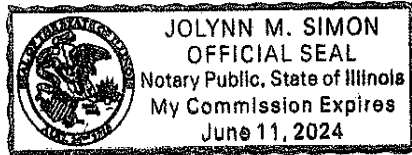
STATE OF ILLINOIS)
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 23 day of March, 2022 by Jeffrey S. Gumbiner, the trustee of the Jeffrey S. Gumbiner I Revocable Trust created pursuant to the Declaration of Trust Establishing Jeffrey S. Gumbiner I Revocable Trust dated September 9, 2004, the authorized member of LINCOLN GRACE INVESTMENTS, L.L.C., an Illinois limited liability company, on behalf of the limited liability company.

[SEAL]

Jollynn M. Simon
Notary Public

My commission expires: June 11, 2024



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EXHIBIT "A"

LEGAL DESCRIPTION OF THE SHOPPING CENTER

Legal Description

THAT PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHEAST OF LINCOLN AVENUE AND WEST OF WEST LINE OF 25 FOOT RIGHT OF WAY OF THE NORTHWESTERN ELEVATED RAILROAD COMPANY (EXCEPT THE SOUTH 1/2 OF GRACE STREET), EXCEPT THE SOUTH 43 FEET OF THE NORTH 322.64 FEET (AS MEASURED ON THE EAST AND WEST LINE) OF THE EAST 60 FEET (AS MEASURED ON THE SOUTH LINE) OF THAT PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE WEST LINE OF THE NORTHWESTERN ELEVATED RAILROAD RIGHT OF WAY IN COOK COUNTY, ILLINOIS, AND ALSO EXCEPT THAT PART LYING SOUTH OF A LINE 249.64 FEET SOUTH OF THE SOUTH LINE OF GRACE STREET AS DEDICATED, IN COOK COUNTY, ILLINOIS.