

# UNOFFICIAL COPY

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Karen A. Yarbrough  
Cook County Clerk  
Date: 07/05/2022 10:04 AM Pg: 1 of 9

(This Space for Recording Use Only)

THIS DOCUMENT SHOULD BE RETURNED TO AFTER RECORDING:

This document prepared by  
and after recording return to:  
Mark F. Kalina, Esq.  
Guerrard Kalina & Butkus  
310 S. County Farm Road, Suite H  
Wheaton IL 60187

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made as of ~~March 8<sup>th</sup>~~ <sup>April 8<sup>th</sup></sup>, 2022, which date shall be the effective date of this Agreement, between MAYANK & PRACHI LLC (together with its successors and/or assigns, "Tenant"), TREND Butterfield Plaza, LLC, an Illinois limited liability company, with an address at 39 W. Monroe Street, Suite 510, Chicago, Illinois 60603 (together with its successors and assigns with respect to Landlord's interest under such lease, "Landlord"), and IFF, an Illinois not for profit corporation, with an address at 333 South Wabash Avenue, Suite 2800, Chicago, Illinois 60604 (together with its successors and assigns, "Lender").

## RECITALS

A. Tenant is the lessee or successor lessee under that Lease dated September 17, 2018 between Tenant as lessee, or its predecessor in interest, and Landlord as lessor, or its predecessor in interest (as the same may from time to time be assigned, subleased, renewed, extended, amended, restated, modified or supplemented, collectively the "Lease") for a portion of certain premises located in Olympia Fields, Illinois as more particularly described in the Exhibit A hereto (the "Premises");

B. Lender has made and/or will make loans or other credit facilities to Landlord under such credit facilities to be secured by a lien on the Premises pursuant to that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of February 9, 2022 executed by Landlord in favor of Lender that was recorded on February 10, 2022 in Cook County, Illinois, as Document No. 2204115016 (as amended, restated, modified or supplemented, the "Mortgage");

C. Lender has requested that Tenant confirm that the Lease is subject and subordinate to the Mortgage;

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D. Tenant is willing to confirm the subordination of the Lease, provided it obtains assurance from Lender that its possession of the premises demised under the Lease (the "Demised Premises"), which Demised Premises is a portion of the Premises, and its right to use any common areas will not be disturbed by reason of or in the event of the foreclosure of the Mortgage; and

E. Lender is willing to give such assurance pursuant to the terms and provisions of this Agreement;

NOW, THEREFORE, for and in consideration of the mutual agreements herein contained and other good and valuable consideration, the parties hereto do hereby mutually covenant and agree as follows:

**SUBORDINATION.** Tenant hereby subordinates the Lease and all terms and conditions contained therein and all rights, options, liens and charges created thereby to the Mortgage and the lien thereof, and to all present or future advances under the obligations secured thereby and to all renewals, substitutions, replacements, extensions, amendments, modifications and/or supplements of same, to the full extent of all amounts secured thereby from time to time, as though the Mortgage had been executed and recorded prior to the execution of the Lease. If there is a conflict between the terms of the Lease and the terms of the Mortgage, the terms of the Mortgage shall prevail.

**RECOGNITION OF TENANT.** So long as no event of default on the part of Tenant under the Lease shall exist that would entitle Landlord to terminate the Lease, or if such an event of default shall exist, so long as Tenant's time to cure the default shall not have expired, the term of the Lease shall not be terminated or modified in any respect whatsoever and Tenant's right of possession to the Demised Premises and its rights in and to any common areas and its other rights arising out of the Lease will all be fully recognized by Lender and shall not be disturbed, canceled, terminated or otherwise affected by reason of the Mortgage or any action or proceeding instituted by Lender to foreclose the Mortgage, or any extension, renewal, consolidation or replacement of same, irrespective of whether Tenant shall have been joined in any action or proceeding.

**ATTORNMEN; ACTS OF PRIOR LANDLORD.** In the event that Lender takes possession of the Premises, either as the result of foreclosure of the Mortgage or accepting a deed to the Premises in lieu of foreclosure, or otherwise, or the Premises shall be purchased at such a foreclosure by a third party, Tenant shall attorn to Lender or such third party and recognize Lender or such third party as its landlord under the Lease, such attornment to be effective and self-operative immediately upon Lender or such third party succeeding to the interest of Landlord under the Lease, whereupon Lender or such third party will recognize and accept Tenant as its tenant thereunder, whereupon, the Lease shall continue in full force and effect as a direct lease between Lender or such third party and Tenant for the full term thereof, together with all extensions and renewals thereof, and Lender or such third party shall thereafter assume and perform all of Landlord's obligations, as Landlord under the Lease with the same force and effect as if Lender or such third party were originally named therein as Landlord; *provided, however,* that Lender or such third party shall not be:

liable for any act or omission of any prior landlord (including Landlord);

subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord);

bound by any rent or additional rent which Tenant might have paid for more than one (1) month in advance to any prior landlord (including Landlord);

liable or obligated to expand the Demised Premises, pay tenant improvement allowances, construct additional improvements or otherwise expend funds, other than expenses for ordinary maintenance and repair;

liable or bound by any right of first refusal or option to purchase all or any portion of the Demised Premises set forth in the Lease;

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liable for any obligation to indemnify or reimburse Tenant, any leasehold mortgagee, or any other third party or any of their respective successors or assigns from and against any loss, liability, damage or cost relating to or arising from the presence of any toxic or hazardous materials on, under or about the Premises;

bound by any Landlord representations contained in the Lease of any nature whatsoever, including without limitation any warranties relating to use, compliance with zoning, hazardous wastes or environmental laws, Landlord's title, Landlord's authority, liability, fitness for purpose or possession;

bound by any provision of the Lease restricting the use of properties owned by Lender or such third party, other than the Premises, for purposes that compete with Tenant;

bound by any amendment, modification, surrender or termination of the Lease not consented to in writing by Lender; or

liable for return of any security deposit.

Tenant hereby waives any and all rights to terminate the Lease by reason of foreclosure of the Mortgage.

**LENDER RESPONSIBILITY.** Notwithstanding anything to the contrary in this Agreement or otherwise, in the event Lender or a third party takes possession of the Premises as provided in paragraph 3 above, the liability of Lender or such third party under the Lease shall be limited to Lender's or such third party's, as the case may be, interest in the Premises and Lender or such third party is hereby discharged and released of any other obligations hereunder or under the Lease. Upon any assignment or other transfer of Lender's or such third-party's interest in the Premises, Lender or such third party, as applicable, shall be discharged and released from any obligation or liability under the Lease arising or accruing after the date of such assignment or transfer.

**LEASE AMENDMENTS.** Tenant agrees that it will not (a) amend or modify any term or provision of the Lease, (b) terminate the Lease, (c) tender or accept a surrender of the Lease or make a prepayment in excess of one month thereunder or (d) subordinate the Lease to any other lien or encumbrance that (i) affects the Premises under the Lease, or any part thereof, or (ii) is junior to the Mortgage, without the express written consent of Lender, and any such purported action without such consent of Lender, shall be void and of no force or effect.

**LEASE DEFAULTS; LENDER RIGHT TO CURE.** In the event Landlord shall fail to perform or observe any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to Lender and Lender 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 in order to terminate, rescind or avoid the Lease or to withhold any rent or other monetary obligations thereunder) for a period of thirty (30) days following receipt of such written notice by Lender; provided, however, that in the case of any default which cannot with diligence be cured within such thirty (30) day period, if Lender shall proceed promptly to cure such default and thereafter 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 such default with diligence and continuity.

**CONDEMNATION.** Notwithstanding anything else contained in the Lease, in the event any portion of the Premises is taken in a proceeding by public authorities by condemnation or otherwise, or is acquired for public or quasi-public purposes, then the right of Tenant to a division or any award shall extend only to that portion of the award as may be attributable to Tenant's trade fixtures, equipment, leasehold improvements and moving expenses, and Tenant shall not be entitled to any portion of the award attributable to the land and buildings comprising the Premises.

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**LIEN OF MORTGAGE.** Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage, except as specifically set forth herein.

**AGREEMENT TO CONTROL.** This Agreement supersedes any inconsistent provisions of the Lease. Tenant represents and warrants that Tenant is now the sole owner of the leasehold estate created by the Lease and Tenant agrees that it shall not hereafter transfer the Lease except as permitted by the terms thereof and subject to the terms and provisions of this Agreement.

**TENANT ESTOPPEL.** In connection with any proposed assignment of the Mortgage, Tenant shall certify in writing to Lender whether or not any default on the part of the Landlord then exists under the Lease.

**ASSIGNMENT OF RENTS.** Tenant has notice that the Lease and the rent and all other sums due thereunder have been assigned to Lender pursuant to the assignment of rents included in the Mortgage. Tenant consents to the assignment of rents. In the event that Lender notifies Tenant of a default under the Mortgage and demands that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant shall honor such demand and pay its rent and all other sums due under the Lease directly to Lender or as otherwise required pursuant to such notice, subject to applicable law.

**JOINDER OF TENANT.** Nothing contained in this Agreement shall prevent Lender from naming Tenant in any foreclosure or other action or proceeding initiated by Lender pursuant to the Mortgage to the extent necessary under applicable law in order for Lender to avail itself of and complete the foreclosure or other remedy.

**NO DEFAULTS.** To the best of the Tenant's knowledge, there does not exist any default, claim, controversy or dispute under the Lease. Tenant has not commenced any action nor sent or received any notice to terminate the Lease.

**NOTICES.** Tenant agrees to provide copies of all notices given Landlord under the Lease to Lender at the following address:

IFF  
 333 South Wabash Avenue, Suite 2800  
 Chicago, Illinois 60604  
 Email: [general@iff.org](mailto:general@iff.org)  
 Attention: Senior Vice-President, Capital Solutions

or to such other address as Lender shall designate in writing; and all such notices shall be in writing and shall be considered as properly given if (a) mailed to the addressee by first class United States mail, postage prepaid, registered or certified with return receipt requested, (b) by delivering same in person to the addressee, or (c) by delivery to a third party commercial delivery service for same day or next day delivery to the office of the addressee with proof of delivery; any notice so given shall be effective, as applicable, upon (i) the third (3rd) day following the day such notice is deposited with the United States mail, (ii) delivery to the addressee, or (iii) upon delivery to such third party delivery service; and any notice given in any other manner shall be effective only if and when received by the addressee.

**BINDING EFFECT; SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of Lender to a party that assumes Lender's obligations and liabilities hereunder, 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.

**GOVERNING LAW.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Illinois.

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**ATTORNEYS' FEES.** In the event of any litigation or other legal proceeding arising between the parties to this Agreement, whether relating to the enforcement of a party's rights under this Agreement or otherwise, the prevailing party shall be entitled to receive its reasonable attorney's fees and costs of suit from the non-prevailing party in such amount as the court shall determine.

**COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single instrument.

**HEADINGS.** The title and section headings in this Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Agreement.

**WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

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IN WITNESS WHEREOF, each of the undersigned has hereunto set their hand to this Subordination, Non-Disturbance and Attornment Agreement, as of the day and year first above written.

TENANT:

MAYANK & PRACHI LLC

By: Mayank Patel  
Name: MAYANK PATEL  
Title: Vice-President

LANDLORD:

TREND Butterfield Plaza, LLC,  
an Illinois limited liability company

By: D. Lynne Richardson  
Name: D. Lynne Richardson  
Title: CEO, Chicago TREND (Manager)

LENDER:

IFE, an Illinois not for profit corporation

By: Terrence A. Young  
Name: TERRENCE A. YOUNG  
Title: Chief Credit Officer

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## ACKNOWLEDGEMENT

STATE OF ILLINOIS  
COUNTY OF DeKalb

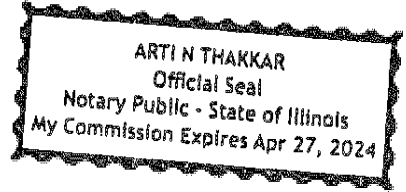
I, the undersigned, a Notary Public of the County and State aforesaid, certify that MYANKKUMAR PATEL, personally came before me this day and acknowledged that (s)he is a member of MAYANK & PRACHI LLC, that executed the foregoing instrument, and acknowledged to me that the same was the act of the said \_\_\_\_\_ and that (s)he executed the same as the act of such \_\_\_\_\_ for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official stamp or seal, this 08 day of April, 2022.

Notary Seal:

Arti N. Thakkar  
Notary Public

My Commission Expires:  
06/27/2024

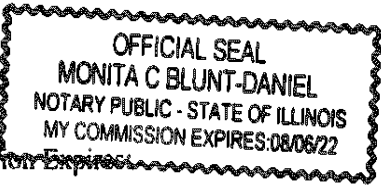


STATE OF ILLINOIS  
COUNTY OF Cook

I, the undersigned, a Notary Public of the County and State aforesaid, certify that D. Lynneir Richardson, personally came before me this day and acknowledged that (s)he is a Manager of TREND Butterfield Plaza, LLC, an Illinois limited liability company, that executed the foregoing instrument, and acknowledged to me that the same was the act of the said Manager and that (s)he executed the same as the act of such Manager for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official stamp or seal, this 5<sup>th</sup> day of March, 2022.

Notary Seal:



Monita Blunt-Daniel  
Notary Public

My Commission Expires:  
8/6/2022

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STATE OF ILLINOIS  
COUNTY OF WILL

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Terrence A Young, personally came before me this day and acknowledged that (s)he is a Chief Credit Officer of TFF, an Illinois not for profit corporation, that executed the foregoing instrument, and acknowledged to me that the same was the act of the said corporation, and that (s)he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official stamp or seal, this 21 day of <sup>June</sup>~~February~~, 2022.

Notary Seal.

*Gina Meskeli*  
Notary Public

My Commission Expires:  
6/8/2024





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Exhibit A  
LEGAL DESCRIPTION

LOT 1 IN PALMER GLENN RESUBDIVISION, A PLANNED UNIT DEVELOPMENT, IN THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 4, 2001 AS DOCUMENT 0010372774, IN COOK COUNTY, ILLINOIS.

Common Address: 3212-3252 Vollmer Road, Olympia Fields IL 60461

PIN: 31-14-201-030-0000

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