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Karen A. Yarbrough

Cook County Clerk

Date: 10/19/2022 01:48 PM Pg: 1 of 12

THIS INSTRUMENT WAS PREPARED
BY AND AFTER RECORDING
SHOULD BE RETURNED TO:

Eugene S. Kraus, Esq.
Scott & Kraus, LLC
150 South Wacker Drive, Suite 2900
Chicago, Illinois 60606

Permanent Index Numbers:

15-33-410-003

15-33-410-008

15-33-410-010

Property Address:

1562-1564 E. Lake Cook Rd.
Wheeling, Illinois 60090

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

THIS SUBORDINATION, NON DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of February [16], 2022, by and among INLAND BANK AND TRUST, an Illinois state chartered banking institution (the "Lender"), with a mailing address of 2805 Butterfield Rd., Suite 200, Oak Brook, IL 60523, ATHLETIC & THERAPEUTIC INSTITUTE OF NAPERVILLE, LLC, an Illinois limited liability company d/b/a ATI Physical Therapy (the "Tenant"), having its principal place of business at 790 Remington Blvd., Bolingbrook, IL 60440, and J. KEVIN NORD, not individually, but solely as agent for AHG-2 COSBW, LLC, B&E GOODMAN SC, LLC, DANVILLE CHICAGO RETAIL LLC, DYCHES FAMILY LLC, JKNCANCHICAGO, LLC, S & C CAPITAL, LLC, and SCHWIND CROSSING, LLC (collectively, the "Landlord"), having its principal office at 216 Fieldcrest Ct., Danville, CA 94506.

BACKGROUND

A. The Lender is the mortgagee under the Leasehold Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of even date herewith, to be recorded concurrently herewith (the "Mortgage"), which Mortgage encumbers the Real Estate (as hereinafter defined) and secures a principal indebtedness in the amount of \$3,900,000.

B. The Tenant has entered into a lease agreement (together with all amendments and modifications thereof, hereinafter being referred to as the "Lease") dated September 24, 2015 with the Landlord (or its predecessor as landlord), pursuant to which the Tenant has leased certain premises (the "Leased Premises") consisting of approximately 1,990 rentable square feet of space in the building ("Building") on the parcel of land (the "Land") commonly known as 1562-1564 E. Lake Cook Road, Wheeling,

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Illinois 60090-2249; the Land and Building being collectively referred to herein as the "Real Estate") legally described on Exhibit A attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. The Tenant represents and warrants to the Lender that the Lease constitutes the entire agreement between the Tenant and the Landlord with respect to the Leased Premises and there are no other agreements, written or verbal, governing the tenancy of the Tenant with respect to the Leased Premises.

2. The Tenant has executed and delivered to the Lender that certain Tenant Estoppel Certificate dated on or about the date hereof (the "Estoppel Certificate"). The provisions of the Estoppel Certificate are hereby incorporated into this Agreement as if fully set forth in this Agreement in their entirety, and the Tenant acknowledges that the Lender will be relying on the statements made in the Estoppel Certificate in determining whether to disburse the proceeds of the loan secured by the Mortgage and whether to enter into this Agreement.

3. The Tenant covenants with the Lender that the Lease shall be subject and subordinate to the lien and all other provisions of the Mortgage and to all modifications and extensions thereof, to the full extent of all principal, interest and all other amounts now or hereafter secured thereby and with the same force and effect as if the Mortgage had been executed and delivered prior to the execution and delivery of the Lease. Without limiting the generality of the foregoing subordination provision, the Tenant hereby agrees that any of its right, title and interest in and to insurance proceeds and condemnation awards (or other similar awards arising from eminent domain proceedings) with respect to damage to or the condemnation (or similar taking) of any of the Real Estate, shall be subject and subordinate to the Lender's right, title and interest in and to such proceeds and awards.

4. The Tenant acknowledges that the Landlord has collaterally assigned to the Lender any and all leases affecting the Real Estate, including the Lease, and the rents and other amounts, including, without limitation, lease termination fees, if any, due and payable under such leases. In connection therewith, the Tenant agrees that, upon receipt of a notice of default by the Landlord under such assignment and a demand by the Lender for direct payment to the Lender of the rents due under the Lease, the Tenant will honor such demand and make all subsequent rent payments directly to the Lender. The Tenant further agrees that any Lease termination fees payable under the Lease shall be paid jointly to the Landlord and the Lender. Landlord irrevocably consents to Tenant's reliance on such notice from Lender without the necessity of any further consent or direction from Landlord or any type of investigation or inquiry and notwithstanding any contrary instructions that Landlord may purport to give Tenant, Landlord expressly agrees that Tenant may comply with this provision, pay all future sums of rent and other sums due under the Lease to Lender and Landlord shall hold Tenant harmless regarding the same.

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5. The Lender agrees that so long as the Tenant is not in default under the Lease beyond any and all applicable notice and cure periods:

(a) The Tenant shall not be named or joined as a party in any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage (unless the Tenant is a necessary party under applicable law); and

(b) The possession by the Tenant of the Leased Premises and the Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease or the term thereof be terminated or otherwise materially adversely affected by (i) any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage, or by any judicial sale or execution or other sale of the Leased Premises, or any deed given in lieu of foreclosure, or (ii) any default under the Mortgage.

6. Prior to pursuing any remedy available to the Tenant under the Lease, at law or in equity as a result of any failure of the Landlord to perform or observe any covenant, condition, provision or obligation to be performed or observed by the Landlord under the Lease (any such failure being hereinafter referred to as a "Landlord's Default"), the Tenant shall: (a) provide the Lender with a notice of the Landlord's Default, specifying the nature thereof, the section of the Lease under which such Landlord's Default arose, and the remedy which the Tenant will elect under the terms of the Lease or otherwise, and (b) allow the Lender the same amount of time as given to Landlord under the Lease following receipt of notice of the Landlord's Default to cure the same. The Tenant shall not pursue any remedy available to it as a result of any Landlord's Default unless the Lender fails to cure same within the time period specified above. For purposes of this Section, a Landlord's Default shall not be deemed to have occurred until all grace and/or cure periods applicable thereto under the Lease have lapsed without the Landlord having effectuated a cure thereof.

7. If the Lender or any future holder of the Mortgage shall become the owner of the Real Estate by reason of foreclosure of the Mortgage or otherwise, or if the Real Estate shall be sold as a result of any action or proceeding to foreclose the Mortgage or transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between the Tenant and the new owner of the Real Estate as "landlord" upon all the same terms, covenants and provisions contained in the Lease (subject to the exclusions set forth in subsection (b) below), and in such event:

(a) The Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if the Tenant elects or has elected to exercise its options to extend the term), and the Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "landlord" under the Lease without any additional documentation to effect such attornment (provided, however, if applicable law shall require additional documentation at the time the Lender

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exercises its remedies then the Tenant shall execute such additional reasonable documents evidencing such attornment as may be required by applicable law);

(b) Such new owner shall be bound to the Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if the Tenant elects or has elected to exercise its options to extend the term); provided, however, that such new owner shall not be:

(i) liable for any act or omission of any prior landlord (including the Landlord) unless Lender and any previous landlord (including Landlord) received prior notice of the same and any act or omission is related to, in any way, any prior landlord's (including Landlord's) duty to maintain, repair or replace the Property or Premises, Land, Building or Real Estate in compliance with governmental or environmental regulations in which case Tenant shall retain any and all remedies available to Tenant under the Lease and be entitled to enforce any and all of its rights under the Lease; provided that Lender was served with notice of such act or omission and afforded opportunity to cure, as provided for herein;

(ii) subject to any offsets or defenses which the Tenant has against any prior landlord (including the Landlord) unless the Tenant shall have provided the Lender with (A) notice of the Landlord's Default that gave rise to such offset or defense, and (B) the opportunity to cure the same, all in accordance with the terms of Section 6 above;

(iii) bound by any base rent, percentage rent, additional rent or any other amounts payable under the Lease which the Tenant might have paid in advance for more than the current month to any prior landlord (including the Landlord);

(iv) liable to refund or otherwise account to the Tenant for any security deposit not actually paid over to such new owner by the Landlord;

(v) [reserved];

(vi) bound by, or liable for any breach of, any representation or warranty or indemnity agreement contained in the Lease or otherwise made by any prior landlord (including the Landlord), unless such breach is continuing to violate the Lease on the date Lender or such new owner assumes ownership and control of the Real Estate; or

(vii) personally liable or obligated to perform any such term, covenant or provision, such new owner's liability being limited in all cases to its interest in the Real Estate.

8. Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by

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registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Lender:	Inland Bank and Trust 2805 Butterfield Rd, Suite 200 Oak Brook, IL 60523 Attn: Gia Tomaszewski
With a copy to:	Scott & Kraus, LLC 150 S Wacker Dr, Suite 2900 Chicago, IL 60606 Attn: Eugene S. Kraus, Esq.
To Landlord:	J. Kevin Nord, Agent 216 Fieldcrest Ct. Danville, CA 94506
With copy to:	John W. Buckley, Esq. 3651 North 100 East, Suite 300 Provo, UT 84604
To Tenant:	ATI Physical Therapy 790 Remington Blvd. Bolingbrook, IL 60440
with a copy to:	Dean J. Papadakis Kaplan Papadakis & Gournis, P.C. 180 North LaSalle Street Suite 2108 Chicago, Illinois 60601

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

9. The Tenant acknowledges and agrees that the Lender will be relying on the representations, warranties, covenants and agreements of the Tenant contained herein and that any default by the Tenant hereunder shall permit the Lender, at its option, to exercise any and all of its rights and remedies at law and in equity against the Tenant and to join the Tenant in a foreclosure action thereby terminating the Tenant's right, title and interest in and to the Leased Premises.

10. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns and any nominees of the Lender,

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all of whom are entitled to rely upon the provisions hereof. This Agreement shall be governed by the laws of the State of Illinois.

11. This Agreement may be executed in multiple counterparts and all of such counterparts together shall constitute one and the same Agreement.

12. The Lender is hereby authorized to rely upon and accept as an original this Agreement, any Loan Documents or other communication which is sent to the Lender by facsimile, telegraphic or other electronic transmission (each, a "Communication") which the Lender in good faith believes has been signed by Tenant and Landlord and has been delivered to the Lender by a properly authorized representative of the Tenant and Landlord, whether or not that is in fact the case. Notwithstanding the foregoing, the Lender shall not be obligated to accept any such Communication as an original and may in any instance require that an original document be submitted to the Lender in lieu of, or in addition to, any such Communication.

13. In the event any party is required to enforce the terms of this Agreement or if there is litigation regarding the interpretation of the terms of this Agreement, the prevailing party shall be entitled to recover its costs, expenses and fees, (including, but not limited to, reasonable attorneys' fees) incurred in such enforcement and/or litigation.


[SIGNATURE PAGE FOLLOWS]

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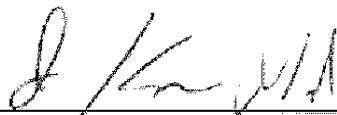
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LENDER:

INLAND BANK AND TRUST, an Illinois state chartered banking institution

By: 
Name: Chris Matcalf
Its: Senior Vice President

LANDLORD:

By: 
Name: J. Kevin Nord
Its: Agent for Landlord

TENANT:

ATHLETIC & THERAPEUTIC INSTITUTE
OF NAPERVILLE, LLC

By: _____
Name: _____
Its: _____

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LENDER:

INLAND BANK AND TRUST, an Illinois
state chartered banking institution

By: _____
Name: _____
Its: _____

LANDLORD:

By: _____
Name: J. Kevin Nord
Its: Agent for Landlord

TENANT:

ATHLETIC & THERAPEUTIC INSTITUTE
OF NAPERVILLE, LLC

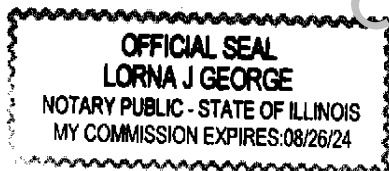
By: _____
Name: Joseph Jordan
Its: Chief Financial Officer

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STATE OF ILLINOIS)
)
 COUNTY OF COOK) SS

I, Lorna J. George, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Chris Metcalfe Senior Vice President of INLAND BANK AND TRUST, an Illinois state chartered banking institution, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this August 24, 2022.



Lorna J. George
 Notary Public

STATE OF CA)
)
 COUNTY OF Contra Costa) SS

I, Rita R. Holmes, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that J. Kevin Nord, personally known to me and whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act in the capacity aforesaid, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this August 24, 2022.



Rita R. Holmes
 Notary Public

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STATE OF ILLINOIS)
) SS
 COUNTY OF WILL)

I, Michelle Lynch, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Joseph Jordan, personally known to me to be the CFO of Athletic & Therapeutic Institute of Naperville, LLC, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this August 30, 2022.



Michelle Lynch
 Notary Public

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EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

Parcel 1:

Lot 27 in Block 1 of Ridgewood, being a Subdivision of the Southeast 1/4 of Section 33 and part of the Southwest 1/4 of Section 34, both in Township 43 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded March 15, 1977 as document 1824725 in book 60 of Plats, page 1, and corrected by certificates of correction, recorded November 16, 1977 as document 1880467 and November 30, 1977 as document 1883517, and April 26, 1978 as document 1913014, in Lake County, Illinois, and that portion of Lot 2 in Schwind Second Subdivision, being a Subdivision of part of the South 1/2 of Section 33, Township 43 North, Range 11, East of the Third Principal Meridian, in Lake County, Illinois and part of the North 1/2 of Section 4, Township 42 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois, recorded February 1, 2001 as document 4638778 in Lake County, Illinois and recorded January 31, 2001 as document 0010084367 in Cook County, Illinois, all located in Lake County, Illinois, being more particularly described as follows:

Beginning at the Southwest Corner of Said Lot 27; thence North 14 degrees 18 minutes 39 seconds East, 122.35 feet along the West Line of Said Lot 27 to the Northwest Corner Thereof; thence South 73 degrees 01 minutes 08 seconds East, 195.81 feet along the North Line of Said Lot 27 to a point of curvature; thence Southeasterly along said North Line, 13.65 feet, being a curve tangent to the last described course, concave Southwest having a radius of 64.00 feet, and a chord bearing South 66 degrees 54 minutes 40 Seconds East, 13.62 feet; thence South 60 degrees 48 minutes 13 seconds East along said North Line, 70.66 feet to a point of curvature; thence Easterly along said North Line, 86.61 feet, being a curve tangent to the last described course, concave North, having a radius of 170.00 feet, and a chord bearing South 75 degrees 23 minutes 56 seconds East, 85.68 feet to a point on the North Line of Said Lot 2 in Schwind Second Subdivision; thence South 89 degrees 59 minutes 38 seconds East, 109.59 feet along the North Line of Said Lot 2 to the Northeast Corner Thereof; thence South 00 degrees 00 minutes 22 seconds East, 493.53 feet along the East Line of Said Lot 2 to the Southeast Corner Thereof; thence along the South Line of Said Lot 2 North 73 degrees 33 minutes 22 seconds West, 382.67 feet to a point on a non-tangent curve; thence departing said South Line, Northerly, 23.36 feet, along said non-tangent curve, concave East, having a radius of 49.50 feet, and a chord bearing North 02 degrees 56 minutes 45 seconds East, 23.15 feet; thence North 16 degrees 27 minutes 59 seconds East, 166.05 feet; thence North 73 degrees 32 minutes 01 seconds West, 1.49 feet to a point on a non-tangent curve; thence Northwesterly, 7.85 feet; along said non-tangent curve, concave Northeast, having a radius of 5.00 feet, and a chord bearing North 28 degrees 32 minutes 01 seconds West, 7.07 feet; thence North 16 degrees 27 minutes 59 seconds East, 60.51 feet; thence North 73 degrees 27 minutes 41 seconds West, 130.52 feet; thence North 70 degrees 23 minutes 25 seconds West, 72.26 feet to a point of curvature; thence Northwesterly, 7.84 feet, along a curve tangent to the last described course, concave Northeast, having a radius of 20.00 feet, and a chord

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bearing North 59 degrees 09 minutes 56 seconds West, 7.79 feet to a point on the West Line of Said Lot 2 of Said Schwind Second Subdivision; thence North 16 degrees 58 minutes 35 seconds East, along said West Line, 76.15 feet to the Northwest corner of Said Lot 2; thence North 89 degrees 59 minutes 38 seconds West for 0.12 feet along the South Line of Said Lot 27 to the point of beginning.

Less and except that property, if any, conveyed to County of Cook pursuant to Trustee's Deed dated April 25, 2018 and recorded September 13, 2018, as Document Number 1825616112 and recorded September 19, 2018, in Lake County, as Document Number 7513877.

Parcel 2:

Easements in favor of Parcel 1 as created in the declaration of easements and Facilities Agreement, dated May 23, 2001, and recorded May 31, 2001 as document number 4701345 made by and between LaSalle Bank National Association, as Trustee Under Trust Agreement dated June 14, 1996 and known as trust number 121736-05 and target corporation over and upon Lot 1 in Schwind Second Subdivision aforesaid, as follows:

- (A) to connect to and use the sanitary sewer facilities, as defined therein;
- (B) to connect to and use the water facilities as defined therein;
- (C) to use the "Shared Access Drive" for the purpose of providing pedestrian and vehicular passage, as defined therein;
- (D) to connect and use the storm sewer facilities leading to the stormwater detention area, as defined therein; and
- (E) to use the stormwater detention areas, as defined therein.