

UNOFFICIAL COPY



2401110000

Doc# 2401110000 Fee \$88.00

RHSP FEE:\$18.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 01/11/2024 09:31 AM PG: 1 OF 9

This Document Prepared By:

Hearland Bank & Trust Co
4456 Wolf Road
Western Springs, IL 60558

When Recorded Return To:

Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, Illinois 60661-3693
Attention: Julia S. Schenk, Esq.

For Recorder's Use Only

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), is made as of June [23], 2023, by and between ASCEND JUSTICE ("Tenant"), an Illinois not-for-profit corporation with offices at 555 W. Harrison Street, Suite 1900, Chicago, Illinois 60607, HEARTLAND BANK & TRUST COMPANY ("Lender"), with offices at [4456 Wolf Road, Western Springs, IL 60558], and STATE LAKE LLC ("Landlord"), an Illinois limited liability company with offices at c/o Marc Realty 55 E. Jackson Boulevard, Suite 500, Chicago, Illinois 60604.

WITNESSETH

WHEREAS, Lender has made or is about to make a loan (together with all advances and increases, the "Loan") to Landlord;

WHEREAS, Landlord and Tenant have entered into that certain Office Building Lease dated as of June [23], 2023 (together with all amendments and modifications thereto, being hereinafter referred to as the "Lease") under which Tenant leases Suite 500 consisting of approximately 10,828 rentable square feet on the fifth (5th) floor of the building commonly known as 177 N. State Street, Chicago, Illinois 60601 located at the Property (defined below) subject to the terms and provisions of the Lease;

WHEREAS, the Loan is or will be secured by that certain Mortgage, recorded or to be recorded with the Cook County Clerk's Office (such mortgage as the same may be amended, modified or restated from time to time, being hereinafter referred to as the "Mortgage") encumbering, inter alia, that certain property legally described on **Exhibit A**, attached hereto and incorporated herein (the "Property") to secure the repayment of the Loan advanced by Lender to

UNOFFICIAL COPY

Landlord, inter alia, pursuant to that certain Note, by Landlord, inter alia, in favor of Lender (the "Note," together with the Mortgage and all other documents which evidence and/or secure the Loan, collectively, the "Loan Documents"); and

WHEREAS, Lender intends to rely on the provisions of this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements herein contained, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby covenant and agree as follows:

1. Tenant agrees that the Lease is and shall be subject and subordinate to the Loan Documents (which shall mean all documents which evidence and/or secure the Loan) and to all present or future advances under the obligations secured thereby and all renewals, amendments, modifications, consolidations, replacements and extensions of the secured obligations and the Loan Documents, to the full extent of all amounts secured by the Loan Documents from time to time. Said subordination is to have the same force and effect as if the Loan Documents and such renewals, modifications, consolidations, replacements and extensions thereof had been executed, acknowledged, delivered and recorded prior to the Lease, any amendments or modifications thereof and any notice thereof.

2. Lender agrees that, if the Lender exercises any of its rights under the Loan Documents, including an entry by Lender pursuant to the Mortgage or a foreclosure of the Mortgage, Lender shall not, so long as Tenant is not in Default (as such term is defined in the Lease) under the Lease, (i) disturb Tenant's right of quiet possession of the Property under the terms of the Lease, (ii) name Tenant as a party to any judicial or non-judicial foreclosure or other proceeding to enforce the Loan Documents unless joinder is required under applicable law, but in such case Lender will not seek affirmative relief against Tenant; or (iii) terminate the Lease.

3. Tenant agrees that, in the event of a foreclosure of the Mortgage by Lender or the acceptance of a deed in lieu of foreclosure by Lender or any other succession of Lender to fee ownership, Tenant will attorn to and recognize Lender as its landlord under the Lease for the remainder of the term of the Lease (including all extension periods which have been or are hereafter exercised) upon the same terms and conditions as are set forth in the Lease, and Tenant hereby agrees to pay and perform all of the obligations of Tenant pursuant to the Lease.

4. Tenant agrees that, in the event Lender succeeds to the interest of Landlord under the Lease, Lender shall not be:

- a. liable for any act or omission of any prior Landlord prior to the time Lender succeeded to any prior Landlord's interest (including, without limitation, the then defaulting Landlord), except for repair, maintenance and replacement obligations of a continuing nature imposed on the landlord under the Lease;
- b. subject to any defense or offsets which Tenant may have against any prior Landlord (including, without limitation, the then defaulting Landlord) except as expressly provided in the Lease;

UNOFFICIAL COPY

- c. bound by any payment of rent or additional rent which Tenant might have paid for more than one month in advance of the due date under the Lease to any prior Landlord (including, without limitation, the then defaulting Landlord);
- d. bound by any obligation to make any payment to Tenant which was required to be made prior to the time Lender succeeded to any prior Landlord's interest, except for repair, maintenance and replacement obligations of a continuing nature imposed on the landlord under the Lease;
- e. accountable for any monies deposited with any prior Landlord (including security deposits, unless actually received by Lender);
- f. bound by any amendment or modification of the Lease that is inconsistent with the terms of this Agreement or is not in writing and signed by both Landlord and Tenant; or
- g. bound by any reduction of the term of the Lease or any termination, cancellation or surrender of the Lease unless such termination, cancellation or surrender (i) occurred during the last six (6) months of the term, (ii) was made with Lender's prior written consent or (iii) is expressly permitted under the Lease.

5. Tenant hereby agrees to give to Lender copies of all notices of Landlord default(s) under the Lease in the same manner as and whenever, Tenant shall give any such notice of default to Landlord, and no such notice of default shall be deemed given to Landlord unless and until a copy of such notice shall have been so delivered to Lender. Lender shall have the right to remedy any Landlord default under the Lease, or to cause any default of Landlord under the Lease to be remedied, and for such purpose Tenant hereby grants Lender a thirty (30) day period of time following such notice of default (or such longer period as may be necessary if the default is not susceptible to cure within 30 days, but in no event in excess of sixty (60) days) to enable Lender to remedy, or cause to be remedied, any such default. Tenant shall accept performance by Lender of any term, covenant, condition or agreement to be performed by Landlord under the Lease with the same force and effect as though performed by Landlord.

6. Tenant hereby acknowledges that existence (or future existence) of that certain Assignment of Rents to be recorded with the Cook County Clerk's Office, from Landlord to Lender in connection with the Loan. Tenant acknowledges that the interest of the Landlord under the Lease is to be assigned to Lender solely as security for the purposes specified in said assignments, and Lender shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, unless Lender shall specifically undertake such liability in writing or unless Lender or its designee or nominee becomes, and then only with respect to periods in which Lender or its designee or nominee becomes, the fee owner of the Property. Tenant agrees that upon receipt of a written notice from Lender of a default by Landlord under the Loan, Tenant will thereafter, if requested by Lender, pay rent to Lender in accordance with the terms of the Lease. Landlord hereby consents to any such payments made directly to Lender and the credit against the Rent then due under the Lease.

7. The Lease shall not be assigned by Tenant, modified, amended or terminated without Lender's prior written consent in each instance, except as permitted in the Lease, including but not limited to Section 15 thereof.

UNOFFICIAL COPY

8. Any notice, election, communication, request or other document or demand required or permitted under this Agreement shall be in writing and shall be deemed delivered on the earlier to occur of (a) receipt or (b) the date of delivery, refusal or nondelivery indicated on the return receipt, if deposited in a United States Postal Service Depository, postage prepaid, sent certified or registered mail, return receipt requested, or if sent via a recognized commercial courier service providing for a receipt, addressed to Tenant or Lender, as the case may be, at the following addresses:

IF TO TENANT: ASCEND JUSTICE
555 W. Harrison Street, Suite 1900
Chicago, IL 60607
Attn: Executive Director

WITH A COPY TO: KATTEN MUCHIN ROSENMAN LLP
525 W. Monroe Street
Chicago, IL 60661-3693
Attn: Julia S. Schenk, Esq.

IF TO LENDER: HEARTLAND BANK & TRUST COMPANY
4456 Wolf Road
Western Springs, IL 60558
Attn: Justin Kennedy

WITH A COPY TO: _____

9. The term "Lender" as used herein includes any successor or assign of the named Lender herein, including without limitation, any co-lender at the time of making the Loan, any purchaser at a foreclosure sale and any transferee pursuant to a deed in lieu of foreclosure, and their successors and assigns, and the terms "Tenant" and "Landlord" as used herein include any successor and assign of the named Tenant and Landlord herein, respectively; provided, however, that such reference to Tenant's or Landlord's successors and assigns shall not be construed as Lender's consent, if consent is required, to any assignment or other transfer by Tenant or Landlord.

10. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, such provision shall be deemed deleted from this Agreement, and the other provisions of this Agreement shall remain in full force and effect, and shall be liberally construed in favor of Lender.

11. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing executed by the

UNOFFICIAL COPY

party against which enforcement of the termination, amendment, supplement, waiver or modification is sought.

12. This Agreement shall be construed in accordance with the laws of the State of Illinois. Any party to this Agreement may record this Agreement with the Cook County Clerk's Office.

13. The person executing this Agreement on behalf of Tenant is authorized by Tenant to do so and execution hereof is the binding act of Tenant enforceable against Tenant. If Tenant consists of two or more parties, each party shall be jointly and severally liable for the obligations contained herein.

14. THE UNDERSIGNED HEREBY CONSENTS TO THE JURISDICTION OF THE COURTS OF THE STATE OF ILLINOIS, COOK COUNTY, OR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS (EASTERN DIVISION). TENANT WAIVES ANY OBJECTION BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS IN ANY ACTION OR PROCEEDING TO WHICH TENANT AND LENDER MAY BE PARTIES ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY PERTAINING TO THIS AGREEMENT AND/OR ANY OTHER LOAN DOCUMENTS.

15. LENDER, TENANT AND LANDLORD WAIVE TRIAL BY JURY IN ANY PROCEEDING BROUGHT BY, OR COUNTERCLAIM ASSERTED BY, LENDER OR TENANT RELATING TO THIS AGREEMENT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS AGREEMENT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY EACH OF LENDER, TENANT AND LANDLORD, AND EACH PARTY HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO, IN ANY WAY, MODIFY OR NULLIFY ITS EFFECT. TENANT REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THESE WAIVERS WITH COUNSEL.


[remainder of page intentionally left blank]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Lender, Tenant and Landlord have executed this Subordination, Non-Disturbance and Attornment Agreement as of the day and year first above written.

TENANT:


ASCEND JUSTICE

By: 
Name: Margaret Duval
Its: Executive Director

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

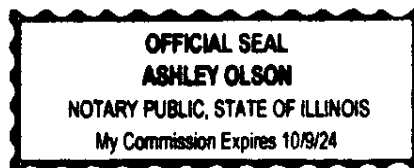
I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that Margaret Duval, as the Executive Director of Ascend Justice personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that she/he signed and delivered the said instrument as her/his own free and voluntary act and for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 14th day of June, 2023.


NOTARY PUBLIC

My Commission Expires:

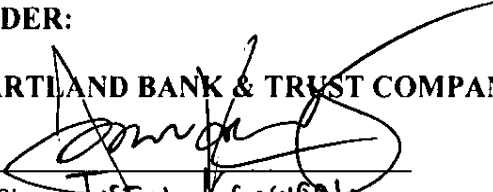
10/9/24



UNOFFICIAL COPY

LENDER:

HEARTLAND BANK & TRUST COMPANY

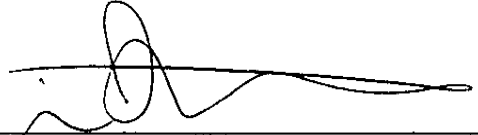
By: 
Name: JUSTIN KENNEDY
Its: SA. VICE PRESIDENT

STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that Justin Kennedy as the SVP HEARTLAND BANK & TRUST COMPANY, personally known to me to be the _____ as aforesaid, and is the same person whose name is subscribed to the foregoing instrument as such _____ appeared before me this day in person and acknowledged to me that he signed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20 day of June, 2023.





NOTARY PUBLIC
My Commission Expires:
7/9/24

UNOFFICIAL COPY

LANDLORD:

STATE LAKE LLC

By: [Signature]
Name: Laurence Weiner
Its: Manager

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that Laurence Weiner, as the Manager HEARTLAND BANK & TRUST COMPANY, personally known to me to be the Manager as aforesaid, and is the same person whose name is subscribed to the foregoing instrument as such _____ appeared before me this day in person and acknowledged to me that he signed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22nd day of June, 2023.

[Signature: Sonia L. Soto]
NOTARY PUBLIC

My Commission Expires:

5/5/27



UNOFFICIAL COPY

EXHIBIT A

THE PROPERTY -- LEGAL DESCRIPTION

Lots 1, 2 and 3 in Block 9 in Fort Dearborn Addition to Chicago (except the South 60 feet of each of said lots) in Section 10, Township 39 North, Range 14 East of the Third Principal Meridian located in Cook County, Illinois.

Common Address: 177 N. State Street, Chicago, Illinois 60601

Permanent Index No.: 17-10-395-001-0000

Property of Cook County Clerk's Office