

**2022036028 00048**

FORSYTH COUNTY NC FEE \$26.00  
 PRESENTED & RECORDED  
 08/02/2022 11:15:01 AM  
 LYNNE JOHNSON  
 REGISTER OF DEEDS  
 BY: ANGELA M THOMPSON, DPTY  
 BK: RE 3710  
 PG: 795 - 802

THIS INSTRUMENT PREPARED BY  
 AND WHEN RECORDED RETURN TO:

Kelly M. Otis  
 Blanco Tachabern  
 404 N. Marshall St.  
 Winston Salem, NC 27101

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (this "**Agreement**") is dated as of the 15 day of July, 2022 (the "**Effective Date**"), between **Truliant Federal Credit Union** ("**Lender**"), and **Z. Smith Reynolds**, an Incorporated a North Carolina non-profit corporation ("**Tenant**").

*Z. Smith Reynolds Foundation, Incorporated*  
RECITALS

A. Tenant is the tenant under a certain lease (the "**Lease**") dated May 23, 2012, with Liberty Plaza, LLC, a North Carolina limited liability company or its predecessor in interest ("**Landlord**"), and Z. Smith Reynolds Foundation ("**Tenant**"), as amended on November 5, 2012, of premises described in the Lease (the "**Premises**") located in a certain office building known as Liberty Plaza located at 102 W. Third Street, Winston-Salem, Forsyth County, North Carolina, and more particularly described in Exhibit A attached hereto and made a part hereof (such office building, including the Premises, is hereinafter referred to as the "**Property**").

B. This Agreement is being entered into in connection with a mortgage loan (the "**Loan**") being made by Lender to Landlord, to be secured by, among other things: a deed of trust (the "**Deed of Trust**"), an assignment of leases and rents, a fixture filing and a UCC financing statement (collectively, the "**Security Documents**") on the Property, some or all of which will be recorded with the Forsyth County Register of Deeds.

C. Tenant acknowledges that Lender will rely on this Agreement in making the Loan to Landlord.

AGREEMENT

For mutual consideration, including the mutual covenants and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

submitted electronically by "Nexsen Pruet, LLC"  
 in compliance with North Carolina statutes governing recordable documents  
 and the terms of the submitter agreement with the Forsyth County Register of Deeds.

1. Tenant agrees that the Lease is and shall be subject and subordinate to the Security Documents 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 Security Documents, to the full extent of all amounts secured by the Security Documents from time to time. Said subordination is to have the same force and effect as if the Security 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 Security Documents, including an entry by Lender pursuant to the Deed of Trust or a foreclosure of the Deed of Trust, Lender shall not disturb Tenant's right of quiet possession of the Premises under the terms of the Lease so long as Tenant is not in default beyond any applicable grace period of any term, covenant or condition of the Lease.

3. Tenant agrees that, in the event of a foreclosure of the Deed of Trust 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 (including, without limitation, the then defaulting Landlord), or

(b) subject to any defense or offsets which Tenant may have against any prior Landlord (including, without limitation, the then defaulting Landlord), or

(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), or

(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, or

(e) accountable for any monies deposited with any prior Landlord (including security deposits), except to the extent such monies are actually received by Lender, or

(f) bound by any surrender, termination, amendment or modification of the Lease made without the consent of Lender.

5. Tenant agrees that, notwithstanding any provision hereof to the contrary, the terms of the Deed of Trust shall continue to govern with respect to the disposition of any insurance proceeds or eminent domain awards, and any obligations of Landlord to restore the real estate of which the Premises are a part shall, insofar as they apply to Lender, be limited to insurance proceeds or eminent domain awards received by Lender after the deduction of all costs and expenses incurred in obtaining such proceeds or awards.

6. 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 such additional period of time as may be reasonable to enable Lender to remedy, or cause to be remedied, any such default in addition to the period given to Landlord for remedying, or causing 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. No Landlord default under the Lease shall exist or shall be deemed to exist (i) as long as Lender, in good faith, shall have commenced to cure such default within the above referenced time period and shall be prosecuting the same to completion with reasonable diligence, subject to force majeure, or (ii) if possession of the Premises is required in order to cure such default, or if such default is not susceptible of being cured by Lender, as long as Lender, in good faith, shall have notified Tenant that Lender intends to institute proceedings under the Security Documents, and, thereafter, as long as such proceedings shall have been instituted and shall be prosecuted with reasonable diligence. In the event of the termination of the Lease by reason of any default thereunder by Landlord, upon Lender's written request, given within thirty (30) days after any such termination, Tenant, within fifteen (15) days after receipt of such request, shall execute and deliver to Lender or its designee or nominee a new lease of the Premises for the remainder of the term of the Lease upon all of the terms, covenants and conditions of the Lease. Lender shall have the right, without Tenant's consent, to foreclose the Deed of Trust or to accept a deed in lieu of foreclosure of the Deed of Trust or to exercise any other remedies under the Security Documents.

7. Tenant hereby consents to an assignment of leases and rents 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 Premises. 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.

8. The Lease shall not be assigned by Tenant, modified, amended or terminated without Lender's prior written consent in each instance.

9. 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 non-delivery 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: Z. Smith Reynolds Foundation  
102 W. Third Street, Suite 1110  
Winston-Salem, NC 27101  
 Attention: Pamela Spalding

with a copy to: Brooks Pierce

230 North Elm Street  
2000 Renaissance Plaza  
Greensboro, NC 27401  
Attention: Jim Phillips

If to Lender: Truliant Federal Credit Union  
3200 Truliant Way  
Winston-Salem, NC 27103  
Attention: Business Services Department

with a copy to: Blanco Tackabery & Matamoros, P.A.  
404 N. Marshall St.  
Winston-Salem, NC 27101  
Attention: Kelly M. Otis

10. 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 successors and assigns 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 to any assignment or other transfer by Tenant or Landlord.

11. 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.

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

This Agreement shall be construed in accordance with the laws of the state in which the Property is located.

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.

IN WITNESS WHEREOF, the undersigned has executed this Agreement by authority duly given and effective as of the Effective Date.

**LENDER:**

TRULIANT FEDERAL CREDIT UNION

By: *Patrick Simpson*  
Name: Patrick Simpson  
Title: Business Services Officer

**LENDER ACKNOWLEDGEMENT**

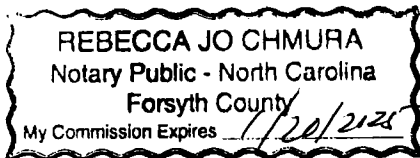
STATE OF NORTH CAROLINA

COUNTY OF Forsyth

I certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document: Patrick Simpson ~~Lender Acknowledgement re Subordination, Non-Disturbance and Affirmment Agreement~~  
Witness my hand and official seal, this the 13 day of July, 2022.

*Rebecca Jo Chmura*  
Notary Public  
Print Name: Rebecca Jo Chmura  
My Commission Expires: 1/20/2025

[AFFIX NOTARY SEAL]



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has executed this Agreement by authority duly given and effective as of the Effective Date

TENANT:

Z. Smith Reynolds Foundation,  
Incorporated

By: *Pamela Spalding*  
Name: Pamela Spalding  
Title: Business Manager

**TENANT ACKNOWLEDGEMENT**

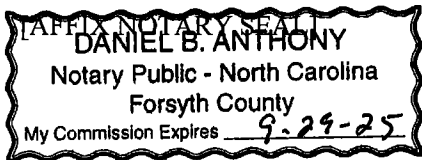
STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

I certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document: ~~SMTA AGREEMENT~~ Pamela Spalding.

Witness my hand and official seal, this the 14<sup>th</sup> day of July, 2022.

*Daniel B. Anthony*  
Notary Public  
Print Name: DANIEL B. ANTHONY  
My Commission Expires: 9-29-25



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

The undersigned Landlord hereby consents to the foregoing Agreement and confirms the facts stated in the foregoing Agreement.

**LANDLORD:**

LIBERTY PLAZA, LLC

By: Lloyd R Daniel  
Name: Lloyd R Daniel  
Title: Manager

**LANDLORD ACKNOWLEDGEMENT**

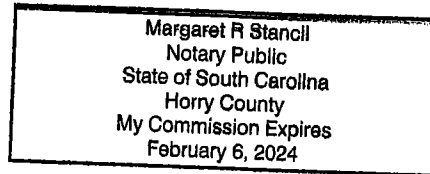
South Carolina  
STATE OF NORTH CAROLINA  
COUNTY OF Horry

I certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document: document Lloyd R. Daniel

Witness my hand and official seal, this the 14<sup>th</sup> day of July, 2022.

Margaret R Stancil  
Notary Public  
Print Name: Margaret R Stancil  
My Commission Expires: 2/6/2024

[AFFIX NOTARY SEAL]



**EXHIBIT A**

Beginning at an existing hole in walk on the western R/W of Liberty Street, the southeastern corner of Lot 206-A of Tax Block 6084 as recorded in Deed Book 2352, Page 1930, said hole being located S.39-00'W. 545.68' and S.7-48'55"E, 118.26' from NCGS monument 'Camel' having NAD '29 N.C. Grid Coordinates of N-857,076.45' and E=1, 632,459.85'; thence with the western R/W of Liberty Street, S.7-48'55"E, 362.14' to an existing 3/8" iron solid at the northwestern intersection of the R/W's of Liberty Street and Second Street; thence with northern R/W of Second Street, S.82-10'W.335.86' to a pk nail placed at the northeastern intersection of the R/W's of Second Street and Town Run Lane; thence with the eastern R/W of Town Run Lane, N.6-47'50"W.265.05' to an existing 1/2" iron solid, the southwestern corner of BDF Associates as recorded in Plat Book 37, Page 56; thence with Plat Book 37, Page 56, N.82-10'15E. 126.23' to an existing pk nail; thence continuing with Plat Book 37, Page 56 and continuing with Deed Book 1821, Page 235, N.7-48' 55" W. 97.41' to an existing 1/2" rebar the southwestern corner of Lot 206-A of Tax Block 6084; thence with Lot 206A, N.82-14'35"E. 204.92' to the place of beginning and containing 2.486 acres more or less.

The above described property lying in Winston Township, Forsyth County, North Carolina is Lot8-B, and portions of Lots 8-A, 8-C of Central Downtown Proj. No. N.C. R-55 as recorded in Plat Book 28, Page 121; or Lot 206-B of Tax Block 6084, Deed Book 2130, Page 2788. This description is taken from an ALTA/ACSM LAND TITLE SURVEY for BDF Associates, a North Carolina General Partnership by Michael E. Gizinski dated July 20, 2000, revised November 4, 2005, and revised February 10, 2009, and is based upon N.C. Grid North.