

# UNOFFICIAL COPY

PREPARED BY AND WHEN RECORDED MAIL TO: *This space reserved for Recorders use only.*

William J. Lapelle  
Law Offices of William J. Lapelle  
One Northfield Plaza, Suite 528  
Northfield, Illinois 60093



Doc#: 1305249051 Fee: \$56.00  
Karen A. Yarbrough RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 02/21/2013 02:12 PM Pg: 1 of 10

Permanent Index Number[s]:

08-23-202-013

Common Address:

1500 East Algonquin Road  
Arlington Heights, Illinois

## ASSIGNMENT OF RENTS AND LEASES

This ASSIGNMENT OF RENTS AND LEASES dated as of Feb 15 2013 (the "Assignment"), is executed by **Oak Brook Apple, LLC**, an Illinois limited liability company ("Assignor"), with a mailing address at 4069 Joseph Drive B3, Waukegan, Illinois 60087, in favor of **Banco Popular North America** (hereinafter referred to as "Lender") with a mailing address of 9600 W. Bryn Mawr, Rosemont, IL 60018.

### RECITALS:

A. Pursuant to that certain Loan and Security Agreement dated the date of this Assignment entered into by Oak Brook Apple, LLC, an Illinois limited liability company ("Apple") and Oak Brook REGENT, LLC, an Illinois limited liability company, a wholly owned subsidiary of Apple ("Regent"), (Apple and Regent hereinafter individually and collectively referred to as "Borrower") and Lender (said Loan and Security Agreement, as may be amended or restated from time to time, shall be hereinafter referred to as the "Loan Agreement") Lender has agreed to make a loan to Borrower in the original principal amount of \$5,537,000.00 (the "Loan"), as evidenced by that certain Promissory Note dated even date herewith (as the same may be amended, modified, replaced or restated from time to time, the "Note"), executed by the Assignor and made payable to the order of the Lender, secured in part those certain Mortgage and Security Agreements dated as of even date herewith, executed by the Assignor to and for the benefit of the Lender (the "Mortgage").

B. A condition precedent to the Lender's making of the Loan to the Borrower is the execution and delivery by the Assignor of this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

### AGREEMENTS:

Freedom Title Corporation  
2260 Hicks Road  
Suite 415  
Rolling Meadows IL 60008

CO. 46172 9/14

537

10

# UNOFFICIAL COPY

1. Definitions. All capitalized terms which are not defined herein shall have the meanings ascribed thereto in the Loan Agreement.

2. Grant of Security Interest. The Assignor hereby grants, transfers, sets over and assigns to the Lender, all of the right, title and interest of the Assignor in and to (i) all of the rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the land legally described in Exhibit "A" attached hereto and made a part hereof and all buildings and other improvements located thereon (said land and improvements being hereinafter referred to collectively as the "Premises"), including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) all leases and subleases (each, a "Lease", and collectively, the "Leases"), now or hereafter existing, of all or any part of the Premises together with all guaranties of any of such Leases and all security deposits delivered by tenants thereunder, whether in cash or letter of credit; (iii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iv) all tenant improvements and fixtures located on the Premises. This Assignment is an absolute transfer and assignment of the foregoing interests to the Lender given to secure:

(a) the payment by the Assignor when due of (i) the indebtedness evidenced by the Note and any and all renewals, extensions, replacements, amendments, modifications and refinancings thereof; (ii) any and all other indebtedness and obligations that may be due and owing to the Lender by the Assignor under or with respect to the Loan Documents (as defined in the Note); and (iii) all costs and expenses paid or incurred by the Lender in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees; and

(b) the observance and performance by the Assignor of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of the Assignor or any other obligor to or benefiting the Lender which are evidenced or secured by or otherwise provided in the Note, this Assignment or any of the other Loan Documents, together with all amendments and modifications thereof.

3. Representations and Warranties of the Assignor. The Assignor represents and warrants to the Lender that:

(a) this Assignment, as executed by the Assignor, constitutes the legal and binding obligation of the Assignor enforceable in accordance with its terms and provisions;

(b) the Assignor is the lessor under all Leases;

(c) there is no other existing assignment of the Assignor's entire or any part of its interest in or to any of the Leases, or any of the rents, issues, income or profits assigned hereunder, nor has the Assignor entered into any agreement to subordinate any of the Leases or the Assignor's right to receive any of the rents, issues, income or profits assigned hereunder;

(d) the Assignor has not executed any instrument or performed any act which may prevent the Lender from operating under any of the terms and provisions hereof or which would limit the Lender in such operation; and

(e) there are no defaults by the landlord and, to the Assignor's knowledge, there are no material defaults by tenants under any Leases.

# UNOFFICIAL COPY

4. Covenants of the Assignor. The Assignor covenants and agrees that so long as this Assignment shall be in effect:

(a) the Assignor shall deliver, within 10 days after final execution, to Lender copies of any new leases for the Premises;

(b) the Assignor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the Lessor thereunder;

(c) the Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than one hundred-eighty days in advance of the time when the same shall become due, except for security or similar deposits;

(d) the Assignor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Loan Documents;

(e) the Assignor shall, at its sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or guarantor thereunder, and shall pay all costs and expenses of the Lender, including court costs and reasonable attorneys' fees, in any such action or proceeding in which the Lender may appear;

(f) the Assignor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby or liens for general real estate taxes not delinquent;

(g) Not later than thirty (30) days after the end of each calendar quarter, the Assignor shall deliver to the Lender a rent roll certified by Assignor for the Premises as of the last day of such period in a form reasonably satisfactory to the Lender.

5. Rights Prior to Default. Unless or until an Event of Default (as defined in Section 6) shall occur, the Assignor shall have the right to collect, at the time (but in no event more than one hundred-eighty days in advance) provided for the payment thereof, all rents, issues, income and profits assigned hereunder, and to retain, use and enjoy the same. Upon the occurrence of an Event of Default that remains uncured, the Assignor's right to collect such rents, issues, income and profits shall immediately terminate without further notice thereof to the Assignor. The Lender shall have the right to notify the tenants under the Leases of the existence of this Assignment upon default that remains uncured.

6. Events of Default. An "Event of Default" shall occur under this Assignment upon the occurrence of (a) a breach by the Assignor of any of the covenants, agreements, representations, warranties or other provisions hereof which is not cured or waived within the applicable grace or cure period, if any, set forth in the Loan Agreement, or (b) any other Event of Default described in the Note, the Mortgage or any of the other Loan Documents.

7. Rights and Remedies Upon Default. At any time upon or following the occurrence of any Event of Default, the Lender, at its option, may exercise any one or more of the following rights and remedies without any obligation to do so, without in any way waiving such Event of Default, without regard to the adequacy of the security for the obligations secured hereby, without releasing the Assignor

# UNOFFICIAL COPY

or any guarantor of the Note from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien or security interest granted by the Loan Documents:

(a) Declare the unpaid balance of the principal sum of the Note, together with all accrued and unpaid interest thereon, immediately due and payable;

(b) Enter upon and take possession of the Premises, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as the Lender may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to the Lender, to make, enforce, modify and accept the surrender of Leases, to obtain and evict tenants, to fix or modify rents, and to do any other act which the Lender deems necessary or proper;

(c) Either with or without taking possession of the Premises, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits of and from the Premises and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder. This Assignment shall constitute an authorization and direction to the tenants under the Leases to pay all rents and other amounts payable under the Leases to the Lender, without proof of default hereunder, upon receipt from the Lender of written notice to thereafter pay all such rents and other amounts to the Lender and to comply with any notice or demand by the Lender for observance or performance of any of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the tenants thereunder, and the Assignor shall facilitate in all reasonable ways the Lender's collection of such rents, issues, income and profits, and upon request will execute written notices to the tenants under the Leases to thereafter pay all such rents and other amounts to the Lender; and

(d) Make any payment or do any act required herein of the Assignor in such manner and to such extent as the Lender may deem necessary, and any amount so paid by the Lender shall become immediately due and payable by the Assignor with interest thereon until paid at the Default Rate and shall be secured by this Assignment.

8. Application of Proceeds. All sums collected and received by the Lender out of the rents, issues, income and profits of the Premises following the occurrence of any one or more Events of Default shall be applied in accordance with the Illinois Mortgage Foreclosure Law (Chapter 735, Sections 5/15-1101 *et seq.*, Illinois Compiled Statutes) and, unless otherwise specified in such act, in such order as the Lender shall elect in its sole and absolute discretion.

9. Limitation of the Lender's Liability. The Lender shall not be liable for any loss sustained by the Assignor resulting from the Lender's failure to let the Premises or from any other act or omission of the Lender in managing, operating or maintaining the Premises following the occurrence of an Event of Default. The Lender shall not be obligated to observe, perform or discharge, nor does the Lender hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of the Assignor under or by reason of this Assignment. The Assignor shall and does hereby agree to indemnify, defend (using counsel reasonably satisfactory to the Lender) and hold the Lender harmless from and against any and all liability, loss or damage which the Lender may incur under any Lease or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against the Lender by reason of any alleged obligation or undertaking on its part to observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided,

# UNOFFICIAL COPY

however, in no event shall the Assignor be liable for any liability, loss or damage which the Assignor incurs as a result of the Lender's gross negligence or willful misconduct. Should the Lender incur any such liability, loss or damage under any Lease or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by the Assignor with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility upon the Lender for the care, control, management or repair of the Premises or for the carrying out of any of the covenants, terms, conditions and agreements contained in any Lease, nor shall it operate to make the Lender responsible or liable for any waste committed upon the Premises by any tenant, occupant or other party, or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger. Nothing set forth herein or in the Mortgage, and no exercise by the Lender of any of the rights set forth herein or in the Mortgage shall constitute or be construed as constituting the Lender a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by the Lender pursuant to the provisions hereof or of the Mortgage.

10. No Waiver. Nothing contained in this Assignment and no act done or omitted to be done by the Lender pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by the Lender of its rights and remedies under any of the Loan Documents. This Assignment is made and accepted without prejudice to any of the rights and remedies of the Lender under the terms and provisions of such instruments, and the Lender may exercise any of its rights and remedies under the terms and provisions of such instruments either prior to, simultaneously with, or subsequent to any action taken by it hereunder. The Lender may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.

11. Further Assurances. The Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as the Lender may designate) and shall do or cause to be done such further acts, as the Lender may request, in order to permit the Lender to perfect, protect, preserve and maintain the assignment made to the Lender by this Assignment.

12. Security Deposits. The Assignor acknowledges that the Lender has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that the Lender assumes no responsibility or liability for any security so deposited.

13. Severability. If any provision of this Assignment is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Lender and the Assignor shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Assignment and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

14. Successors and Assigns. This Assignment is binding upon the Assignor and its legal representatives, successors and assigns, and the rights, powers and remedies of the Lender under this Assignment shall inure to the benefit of the Lender and its successors and assigns.

# UNOFFICIAL COPY

15. Written Modifications. This Assignment shall not be amended, modified or supplemented without the written agreement of the Assignor and the Lender at the time of such amendment, modification or supplement.

16. Duration. This Assignment shall become null and void at such time as the Assignor shall have paid the principal sum of the Note, together with all interest thereon, and shall have fully paid and performed all of the other obligations secured hereby and by the other Loan Documents.

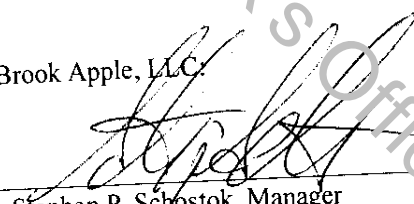
17. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

18. Notices. All notices, demands, requests and other correspondence which are required or permitted to be given hereunder shall be deemed sufficiently given when delivered or mailed in the manner and to the addresses of the Assignor and the Lender, as the case may be, as specified in the Loan Agreement.

19. WAIVER OF TRIAL BY JURY. THE ASSIGNOR AND THE LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS ASSIGNMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS ASSIGNMENT OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS ASSIGNMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE ASSIGNOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST THE LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS ASSIGNMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

IN WITNESS WHEREOF, the Assignor has executed and delivered this Assignment of Rents and Leases as of the day and year first above written.

Oak Brook Apple, LLC:

By:   
Title: Stephen P. Schostok, Manager

# UNOFFICIAL COPY

STATE OF ILLINOIS )  
COUNTY OF Cede ) SS.

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Stephany P. Schostak, the Manager, of SakBrode Apple, a[n] LLC [corporation / limited partnership / limited liability company], who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said [corporation / limited partnership / limited liability company], for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 15 day of Feb, 2015  
[Signature]  
Notary Public

OFFICIAL SEAL  
DIANNE C PHILIPPE  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 6-21-2015

My Commission Expires: 6/21/15

CLERK OF COOK COUNTY Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT "A"

### LEGAL DESCRIPTION OF REAL ESTATE

ALL THAT PART OF LOT 3 IN LINNEMANN'S DIVISION OF THE SOUTH 3/4 OF THE EAST 1/2 OF THE NORTHEAST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN AND THE SOUTH 477.78 FEET OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE EAST LINE OF LOT 3 WITH THE NORTHERLY LINE OF ALGONQUIN ROAD AS DEDICATED BY DOCUMENT NO. 11195787; THENCE WEST AND NORTH ALONG THE NORTHERLY LINE OF SAID ROAD, BEING A CURVED LINE CONVEX TO THE SOUTH AND HAVING A RADIUS OF 1996.48 FEET, 469.44 FEET, ARC MEASURE TO A POINT OF TANGENT; THENCE NORTH 62 DEGREES, 40 MINUTES, 50 SECONDS WEST ALONG THE NORTHERLY LINE OF ALGONQUIN ROAD, TANGENT WITH THE LAST DESCRIBED CURVED LINE, 110.0 FEET; THENCE NORTH 27 DEGREES 19 MINUTES 10 SECONDS EAST, 100 FEET TO A POINT OF CURVE; THENCE NORTH AND EAST ALONG A CURVED LINE, TANGENT WITH THE LAST DESCRIBED LINE, CONVEX TO THE EAST AND HAVING A RADIUS OF 808.0 FEET, 121.0 FEET, ARC MEASURE; THENCE SOUTH 67 DEGREES, 05 MINUTES 16 SECONDS EAST, 480.95 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3, 228.0 FEET NORTH OF THE POINT OF BEGINNING; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 3, 228.00 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS

PIN: 08-23-202-013

Common Address: 1500 East Algonquin Road  
Arlington Heights, Illinois



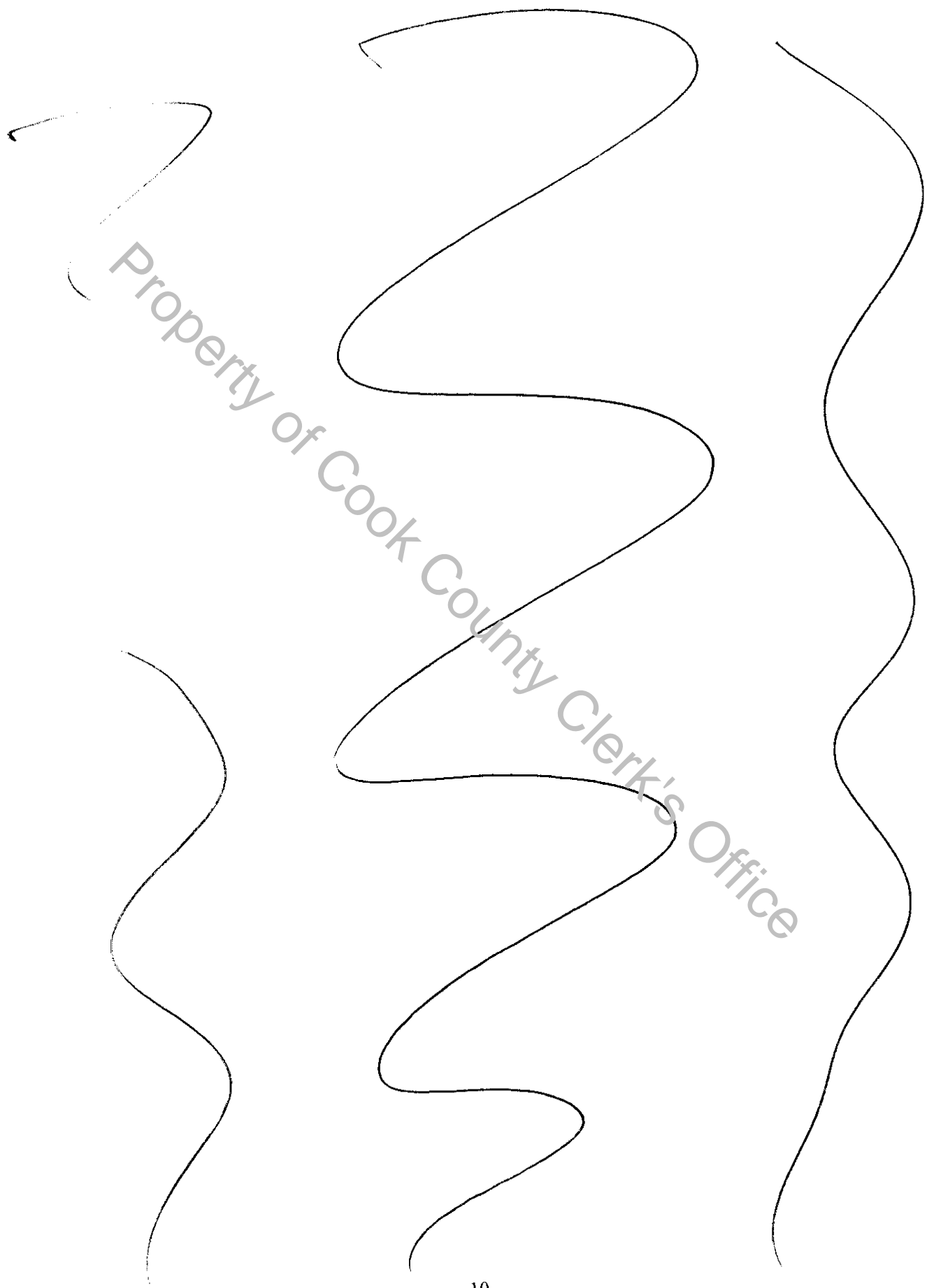
# UNOFFICIAL COPY

## EXHIBIT "B"

### LEASES

1. Lease by and between Oak Brook Apple, LLC and Path Electronics, Inc., dated 06/22/90.
2. Lease by and between Oak Brook Apple, LLC and Mikes Landscape Services, dated 07/29/09.
3. Lease by and between Oak Brook Apple, LLC and EDR Electronics, Inc., dated 03/12/97.
4. Lease by and between Oak Brook Apple, LLC and Automatic Appliance Parts, dated 09/17/84.
5. Lease by and between Oak Brook Apple, LLC and VACANT, dated \_\_\_\_\_.
6. Lease by and between Oak Brook Apple, LLC and VACANT, dated \_\_\_\_\_.
7. Lease by and between Oak Brook Apple, LLC and Core Group Inc., dated 10/23/09.
8. Lease by and between Oak Brook Apple, LLC and Expedited Services, Inc., dated 02/12/01.
9. Lease by and between Oak Brook Apple, LLC and VACANT, dated \_\_\_\_\_.
10. Lease by and between Oak Brook Apple, LLC and Paper Crown Gallery, dated 09/22/11.
11. Lease by and between Oak Brook Apple, LLC and Sell A Cow, Inc., dated 01/28/11.
12. Lease by and between Oak Brook Apple, LLC and American RFID Solutions, dated 08/26/10.
13. Lease by and between Oak Brook Apple, LLC and Mr. Young Kim, dated 09/01/11.
14. Lease by and between Oak Brook Apple, LLC and Mr. Nobou Kolak, dated 06/22/09.
15. Lease by and between Oak Brook Apple, LLC and Kikutake Robbins Dental, dated 06/04/98.
16. Lease by and between Oak Brook Apple, LLC and Sure Staff, dated 07/27/98.
17. Lease by and between Oak Brook Apple, LLC and Service Midwest, Inc., dated 04/11/07.
18. Lease by and between Oak Brook Apple, LLC and Mr. Yong Park, dated 05/01/08.

# UNOFFICIAL COPY



Property of Cook County Clerk's Office