



Loan Number 4201639004

Doc#: 1307401031 Fee: \$52.00
Karen A. Yarbrough RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/15/2013 09:17 AM Pg: 1 of 8

PREPARED BY:
James B. Carroll, Esq.
7800 West 95th St 2nd Fl East
Hickory Hills, IL 60457
(708) 430-1300

MAIL TO:
Standard Bank and Trust Company
ATTN: Loan Post Closing
7725 W 98th St
Hickory Hills, IL 60457

EP 3566 HH
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ASSIGNMENT OF RENTS AND LEASES

This Assignment of Rents and Leases (Assignment) is made, entered into and delivered by Standard Bank and Trust Company, 7800 W. 95th St., Hickory Hills, IL 60457, not personally but as Trustee under a Trust Agreement dated April 23, 2007, and known as Trust 19902 (hereinafter, referred to as the "Trustee") in favor of Standard Bank and Trust Company, its successors and assigns, 7800 West 95th Street, Hickory Hills, Illinois 60457, (referred to herein as the "Lender" or "Assignee").

RECITALS

A. Assignor is making this Assignment to Lender to secure, in part a certain Third Amended and Restated Note (the "Note") in the principal sum of **Five Million Nine Hundred One Thousand One Hundred Thirteen and 19/100 Dollars (\$5,901,113.19)** (the "Loan") made payable to or at the order of Lender and delivered to Lender pursuant to the terms of a Third Amendment to Loan Agreement (together with the original Loan Agreement as amended by a First Amendment and a Second Amendment individually and collectively referred to herein as the "Loan Agreement") of the same date herewith wherein, inter alia, Lender has agreed to loan to Standard Bank and Trust Company, 7800 W. 95th St., Hickory Hills, IL 60457, not personally but as Trustee under a Trust Agreement dated April 23, 2007, and known as Trust 19902 (hereinafter, referred to as the "Trustee") and Orbitz Group, LLC, an Illinois Limited Liability Company, 535 N. Michigan Avenue, Unit 1814, Chicago, IL 60611, (hereinafter referred to as the "Company"), (Trustee and the Company individually and collectively as the context requires are sometimes referred to as "Borrower"), the principal sum of **Five Million Nine Hundred One Thousand One Hundred Thirteen and 00/100 Dollars (\$5,901,113.00)** subject to the terms and provisions of the Loan Agreement.

B. One of the conditions precedent to Lender's making of the Loan to Borrower is the execution and delivery by 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:

BOX 334 CT1

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1. **Definitions.** All capitalized terms that are not defined herein shall have the meanings ascribed thereto in that certain Loan Agreement of even date herewith made by Borrower and others for the benefit of Lender.

2. **Grant of Security Interest.** Lender hereby grants, transfers, sets over, and assigns to Lender, all of the right, title, and interest of Lender 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 (collectively, 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 §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 Lender given to secure

(a) payment by Lender 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 Lender by Borrower, Collateral Pledgors or Guarantors under or with respect to the Loan Documents (as defined in the Loan Agreement); and (iii) all costs and expenses paid or incurred by Lender in enforcing its rights hereunder, including without limitation, court costs, and reasonable attorneys' fees; and

(b) observance and performance by Borrower of the covenants, conditions, agreements, representations, warranties, and other liabilities and obligations of Borrower or any other obligor to or benefiting Lender that 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 Assignor.** Assignor represents and warrants to Lender that

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

(b) Assignor is or will be the lessor under all Leases;

(c) there is no other existing assignment of 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 Assignor entered into any agreement to subordinate any of the Leases or such Assignor's right to receive any of the rents, issues, income, or profits assigned hereunder;

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

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

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

(a) Assignor shall not lease any portion of the Premises unless Assignor obtains Lender's prior written consent to execute the lease such lease which consent may be withheld by Lender in Lender's sole discretion. After receipt of Lender's written consent to execute the lease, Assignor shall furnish to Lender notice of the execution of any such lease and a true, complete, and correct copy thereof.

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(b) 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, and Assignor shall not do or suffer to be done anything to impair the security thereof. Assignor shall not (i) release the liability of any tenant under any Lease; (ii) consent to any tenant's withholding of rent or making monetary advances and offsetting the same against future rentals; (iii) consent to any tenant's claim of a total or partial eviction; (iv) consent to a tenant termination or cancellation of any [Major] Lease (as defined below), except as specifically provided therein; or (v) enter into any oral leases with respect to all or any portion of the Premises.

(c) Assignor shall not collect any of the rents, issues, income, or profits assigned hereunder more than 30 days in advance of the time when the same shall become due, except for security or similar deposits.

(d) 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) Assignor shall not modify the terms and provisions of any Lease, nor shall Assignor give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any [Major] Lease, without Lender's prior written consent which consent may be withheld by Lender in Lender's sole discretion; provided, however, that Assignor may cancel or terminate any Lease as a result of a material default by the tenant thereunder and failure of such tenant to cure the default within the applicable time periods set forth in the Lease.

(f) Assignor shall not accept a surrender of any Lease or convey or transfer, or suffer or permit a conveyance or transfer, of the premises demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, any tenant thereunder; any termination fees payable under a Lease for the early termination or surrender thereof shall be paid jointly to Assignor and Lender.

(g) Assignor shall not alter, modify, or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or permit to be done anything that would terminate any such guaranty as a matter of law.

(h) Assignor shall not waive or excuse the obligation to pay rent under any Lease.

(i) 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 any tenant or guarantor thereunder, and shall pay all costs and expenses of Lender, including court costs and reasonable attorneys' fees, in any such action or proceeding in which Lender may appear.

(j) Assignor shall give prompt notice to Lender of any notice of any default by the lessor under any Lease received from any tenant or guarantor thereunder.

(k) Assignor shall enforce the observance and performance of each covenant, term, condition, and agreement contained in each [Major] Lease to be observed and performed by the tenants and guarantors thereunder and shall immediately notify Lender of any material breach by the tenant or guarantor under any such Lease.

(l) 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.

(m) Assignor shall not execute hereafter any Lease unless there shall be included therein a provision providing that the tenant thereunder acknowledges that such Lease has been assigned pursuant to this Assignment and agrees not to look to Lender as mortgagee, mortgagee in possession, or successor in title to the Premises for accountability for any security

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deposit required by lessor under such Lease unless such sums have actually been received in cash by Lender as security for tenant's performance under such Lease.

(n) If any tenant under any Lease is or becomes the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state, or local statute that provides for the possible termination or rejection of the Leases assigned hereby, Assignor covenants and agrees that if any such Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Lender, and any check in payment of damages for termination or rejection of any such Lease will be made payable to Assignor and Lender. Assignor hereby assigns any such payment to Lender and further covenants and agrees that upon the request of Lender, it will duly endorse to the order of Lender any such check, the proceeds of which shall be applied in accordance with the provisions of Paragraph 8 below.

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

5. Rights Prior to Default. Unless or until an Event of Default (as defined in Paragraph 6) shall occur, Assignor shall have the right to collect, at the time (but in no event more than 30 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, Assignor's right to collect such rents, issues, income, and profits shall immediately terminate without further notice thereof to Assignor. Lender shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

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

7. Rights and Remedies Upon Default. At any time upon or following the occurrence of any Event of Default, 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 further notice or demand on Assignor or Borrower, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor, Borrower 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 on 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 may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs, or replacements thereof or thereof as may seem proper to 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 that 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 Lender, without proof of default hereunder, upon receipt from Lender of written notice to thereafter pay all such rents and other amounts to Lender and to comply with any notice or demand by 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 Assignor shall facilitate in

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all reasonable ways 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 Lender; and

(d) make any payment or do any act required herein of Assignor in such manner and to such extent as Lender may deem necessary, and any amount so paid by Lender shall become immediately due and payable by 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 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, 735 ILCS 5/15-1101, et seq., and unless otherwise specified in such act, in such order as Lender shall elect in its sole and absolute discretion.

9. Limitation of Assignor's Liability. Assignor shall not be liable for any loss sustained by Lender resulting from Lender's failure to let the Premises or from any other act or omission of Lender in managing, operating, or maintaining the Premises following the occurrence of an Event of Default. Lender shall not be obligated to observe, perform, or discharge, nor does 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 Lender under or by reason of this Assignment. Assignor shall and does hereby agree to indemnify, defend (using counsel satisfactory to Lender), and hold Lender harmless from and against any and all liability, loss, or damage that 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 that may be asserted against 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, however, in no event shall Assignor be liable for any liability, loss, or damage that Lender incurs as a result of Lender's gross negligence or willful misconduct. Should 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 Assignor with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility on 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 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 Lender of any of the rights set forth herein or in the Mortgage, shall constitute or be construed as constituting Lender a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by 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 Lender pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by 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 Lender under the terms and provisions of such instruments, and 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. 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. Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as Lender may designate) and shall do or cause to be done such further acts as Lender may request in order to permit Lender to perfect, protect, preserve, and maintain the assignment made to Lender by this Assignment.

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12. Security Deposits. Assignor acknowledges that Lender has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that 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, Assignor and Lender 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 on Assignor and its legal representatives, successors, and assigns, and the rights, powers, and remedies of Lender under this Assignment shall inure to the benefit of Lender and its successors and assigns.

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

16. Duration. This Assignment shall become null and void at such time as Lender 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 that 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 Assignor and Lender, as the case may be, as specified in the Loan Agreement.

19. WAIVER OF TRIAL BY JURY. ASSIGNOR AND 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 THAT 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. ASSIGNOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS ASSIGNMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES.

20. ASSIGNOR HEREBY REPRESENTS AND WARRANTS TO LENDER THAT THIS ASSIGNMENT AND ANY COLLATERAL OF THE ASSIGNOR WHICH IS HEREIN PLEDGED TO LENDER IS GIVEN TO LENDER TO FURTHER THE BUSINESS PURPOSES OF THE ASSIGNOR AND NOT FOR PERSONAL, HOUSEHOLD OR FAMILY PURPOSES.

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EXHIBIT "A"

LEGAL DESCRIPTION

LOT 1 IN ORBITZ GROUP LLC SUBDIVISION, OF PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 20, 2003 AS DOCUMENT NO. 0317103059, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NO. 27-22-102-013-0000 and 27-22-102-014-0000

COMMONLY KNOWN AS: 16235 S. LaGrange Road, Orland Park, IL 60462