

# UNOFFICIAL COPY

Doc#: 1435256068 fee: \$64.00  
Date: 12/18/2014 12:36 PM Pg: 1 of 9  
Cook County Recorder of Deeds  
\*RHSP:\$9.00 RPRF:\$1.00 FEES Applied

**Recording Requested by:**  
**Carl Hurwitz, Esq.**  
Marriott International, Inc.  
10400 Fernwood Road  
Dept. 52/923.28  
Bethesda, MD 20817

**Document Prepared by:**  
Marriott International, Inc.  
10400 Fernwood Road  
Dept. 52/923.28  
Bethesda, MD 20817

**When Recorded, Mail to:**  
Mr. Everitte Finch  
Title Officer  
National Commercial Services  
1825 Eye Street NW, Suite 102  
Washington, DC 20006 406837

*This space reserved for Recorder's use only.*

## MEMORANDUM OF RIGHT OF FIRST REFUSAL

# UNOFFICIAL COPY

## MEMORANDUM OF RIGHT OF FIRST REFUSAL

This Memorandum of Right of First Refusal ("Memorandum"), dated as of December 10, 2014 between Marriott International, Inc. ("Franchisor") and SMASHotels Chicago, LLC, an Illinois limited liability company ("Franchisee").

### RECITALS:

A. Franchisor and Franchisee have entered into a Franchise Agreement dated December 10, 2014 (the "Agreement"), relating to that certain real property located in Cook County/City of Chicago, State of Illinois, more fully described on Exhibit 1 attached hereto.

B. Franchisor and Franchisee are executing and delivering this Memorandum in accordance with Section 17.5 of the Agreement for the purpose of submitting it to be recorded among the Land Records of Cook County/City of Chicago, State of Illinois (the "Local Jurisdiction").

### AGREEMENT:

NOW THEREFORE, for the good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto state as follows with respect to the Agreement:

1. Grant of Right of First Refusal. Pursuant to Section 17 of the Agreement, Franchisee has granted Franchisor the right of first refusal solely in connection with a proposed Transfer to a Competitor (as such terms are defined in the Agreement) (the "Right of First Refusal") to purchase the real estate located in the Local Jurisdiction, and more particularly described on Exhibit 1 attached hereto and made a part hereof, together with the improvements thereto (the "Premises"), upon the terms contained in Section 17.4, Section 17.5 and Section 17.6 of the Agreement.

2. Interest in Real Estate and Injunctive Relief. Franchisee acknowledges that Franchisor's rights under Section 17.4 of the Agreement are real estate rights in the Premises. Franchisee acknowledges and agrees that damages are not an adequate remedy if Franchisee breaches its obligations under Section 17.4 of the Agreement and that Franchisor will be entitled to injunctive relief to prevent or remedy such breach without the necessity of proving the inadequacy of money damages as a remedy and without the necessity of posting a bond.

3. Term. The Right of First Refusal will terminate upon the termination of the Agreement; provided that in the event of an early termination of the Agreement, the Right of First Refusal will survive such early termination in accordance with the provisions of Section 17.6 of the Agreement.

4. Subordination. Franchisor's rights in real estate under Section 17.4 of the Agreement will only be subordinate to the exercise of the rights of Lenders under a mortgage or security deed secured by the Premises, only if and for so long as: (i) the lender is not a Competitor or Affiliate of a Competitor (as those terms are defined in the Agreement); (ii) any such mortgage or security deed is and remains validly recorded and in full force and effect; and (iii) the indebtedness underlying such mortgage or security deed complies with the requirements of Section 5.2 of the Agreement.

5. Addresses. Franchisor's address, as set forth in the Agreement, is 10400 Fernwood Road, Bethesda, MD 20817, Attn: Law Department 52/923.27. Franchisee's address, as set forth in the Agreement, is 250 Parkway Drive, Suite 120, Lincolnshire, IL 60069.

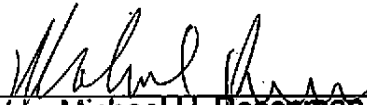
*{Signatures appear on the following page}*

# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be executed, under seal, by their duly authorized representatives, as of the date first above written.

FRANCHISOR:

MARRIOTT INTERNATIONAL, INC.

By:  (SEAL)  
Name: **Michael H. Rosenman**  
Title: **Vice President, Owner & Franchise Services**

FRANCHISEE:

SMASHOTELS CHICAGO, LLC  
an Illinois limited liability company

By: SMASHotels Chicago Manager, LLC  
Its: Manager

By: \_\_\_\_\_ (SEAL)  
Name: Scott D. Greenberg  
Title: Manager

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be executed, under seal, by their duly authorized representatives, as of the date first above written.

FRANCHISOR:

MARRIOTT INTERNATIONAL, INC.

By: \_\_\_\_\_ (SEAL)

Name:

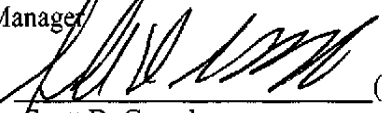
Title:

FRANCHISEE:

SMASHOTELS CHICAGO, LLC  
an Illinois limited liability company

By: SMASHotels Chicago Manager, LLC

Its: Manager

By:  \_\_\_\_\_ (SEAL)

Name: Scott D. Greenberg

Title: Manager

Property of Cook County Clerk's Office

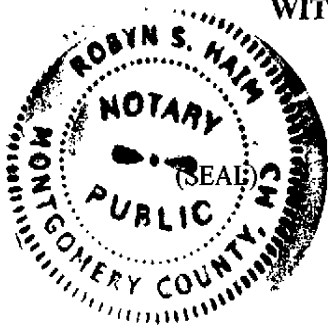
# UNOFFICIAL COPY

STATE OF MARYLAND

~~CITY~~/COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on December 10, 2014 before me, a Notary Public of the State and ~~City~~/County aforesaid, personally appeared Michael H. Rosenman who acknowledged himself/herself to be the VP, OFS of Marriott International, Inc., a Delaware corporation and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Marriott International, Inc. by himself/herself as such officer.

WITNESS my hand and Notarial Seal.



Robyn S. Haim  
\_\_\_\_\_  
Robyn S. Haim, Notary Public  
My Commission Expires: 12/28/14

STATE OF

CITY/COUNTY OF

I HEREBY CERTIFY that on \_\_\_\_\_, 2014 before me, a Notary Public of the State and City/County aforesaid, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of SMASHotels Chicago Manager, LLC, an Illinois limited liability company (the "Franchisee Manager"), the manager of SMASHotels Chicago, LLC, an Illinois limited liability company (the "Franchisee"), and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Franchisee Manager, in its capacity as the manager of the Franchisee, by himself/herself as such officer.

WITNESS my hand and Notarial Seal.

(SEAL)

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
My Commission Expires: \_\_\_\_\_

# UNOFFICIAL COPY

STATE OF MARYLAND

CITY/COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on \_\_\_\_\_, 2014 before me, a Notary Public of the State and City/County aforesaid, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of Marriott International, Inc., a Delaware corporation and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Marriott International, Inc. by himself/herself as such officer.

WITNESS my hand and Notarial Seal.

(SEAL)

\_\_\_\_\_, Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF Illinois

CITY/COUNTY OF Lake

I HEREBY CERTIFY that on December 9, 2014 before me, a Notary Public of the State and City/County aforesaid, personally appeared Scott Greenberg who acknowledged himself/herself to be the Manager of SMASHotels Chicago Manager, LLC, an Illinois limited liability company (the "Franchisee Manager"), the manager of SMASHotels Chicago, LLC, an Illinois limited liability company (the "Franchisee"), and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Franchisee Manager, in its capacity as the manager of the Franchisee, by himself/herself as such officer.

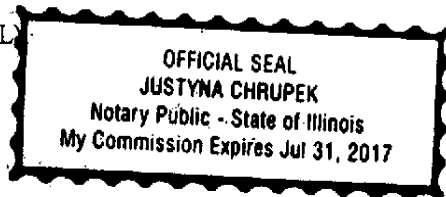
WITNESS my hand and Notarial Seal.

(SEAL)

Justyna Chrupek

State of Illinois, Notary Public

My Commission Expires: July 31, 2017



# UNOFFICIAL COPY

## EXHIBIT 1 TO MEMORANDUM OF RIGHT OF FIRST REFUSAL

### LEGAL DESCRIPTION

The real property situated in the State of Illinois, County of Cook, City of Chicago, and is described as follows:

#### PARCEL 1:

THE WEST 20 FEET OF LOT 14 IN THE SUBDIVISION OF THE WEST 394 FEET (EXCEPT THE EAST 14 FEET OF THE NORTH 80 FEET THEREOF) IN BLOCK 32 IN KINZIE'S ADDITION TO CHICAGO IN THE NORTH 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE EAST 5 FEET OF LOT 14, ALL OF LOT 15 AND THE WEST 10 FEET OF LOT 16 IN THE SUBDIVISION OF THE WEST 394 FEET (EXCEPT THE EAST 14 FEET OF THE NORTH 80 FEET THEREOF) OF BLOCK 32 IN KINZIE'S ADDITION TO CHICAGO IN SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN: 17-10-203-015-0000, 17-10-203-016-0000 and 17-10-203-017-0000

COMMON ADDRESS: 224 - 228 EAST ONTARIO STREET, CHICAGO, ILLINOIS 60611

### PERMITTED EXCEPTIONS

1. TAXES FOR THE SECOND INSTALLMENT 2013 AND FOR THE YEAR 2014.
2. THE LAND LIES WITHIN THE BOUNDARIES OF SPECIAL SERVICE AREA NUMBER 12 AS DISCLOSED BY ORDINANCE RECORDED AS DOCUMENT 91075841, AND IS SUBJECT TO ADDITIONAL TAXES UNDER THE TERMS OF SAID ORDINANCE AND SUBSEQUENT RELATED ORDINANCES.
3. AGREEMENT DATED NOVEMBER 23, 1885 AND RECORDED DECEMBER 23, 1885 AS DOCUMENT 679080 MADE BY MINNIE M. SEYMOUR WITH A MAJORITY OF THE EXECUTORS AND TRUSTEES UNDER THE WILL OF WILLIAM B. OGDEN, DECEASED, FOR A PARTY WALL BETWEEN LOTS 13 AND 14 IN THE SUBDIVISION OF THE WEST 394 FEET OF BLOCK 32 AFORESAID (EXCEPT THE EAST 14 FEET OF THE NORTH 80 FEET OF SAID BLOCK).
4. RESTRICTIONS STATED AND SHOWN ON THE PLAT OF LOTS FRONTING ON ONTARIO STREET OF SAID SUBDIVISION OF THE WEST 394 FEET OF BLOCK 32 AFORESAID (EXCEPT THE EAST 14 FEET OF THE NORTH 80 FEET THEREOF) RECORDED IN BOOK OF PLATS 16 PAGE 10 AS FOLLOWS BUILDING LINE 19 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF ONTARIO STREET (AND SAID SUBDIVISION AND PLAT ARE MADE SUBJECT TO THE EXPRESS CONDITION THAT NO BUILDING SHALL EXTEND SOUTH OF THE SAID BUILDING LINE),

# UNOFFICIAL COPY

5. VIOLATION OF A 19 FOOT BUILDING LINE BY 0.30 OF A FOOT AS DISCLOSED BY SURVEY MADE BY MM SURVEYING CO., INC., DATED DECEMBER 24, 2013, ORDER NO. 75791, LAST REVISED MAY 20, 2014.
6. ENCROACHMENT OF BUILDING ENTRY FROM BUILDING WEST OVER ONTO LAND ON WEST LINE BY 0.10 OF A FOOT AS DISCLOSED BY SURVEY MADE BY MM SURVEYING CO., INC., DATED DECEMBER 24, 2013, ORDER NO. 75791, LAST REVISED MAY 20, 2014.
7. PARTY WALL AGREEMENT RECORDED JULY 15, 1887 AS DOCUMENT 851453 ALONG THE EAST PROPERTY LINE.
8. 15 FOOT BUILDING LINE AS TO PROJECTIONS FROM BUILDINGS. REFERRED TO IN DEED RECORDED AS DOCUMENT 851451.
9. COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN DEED RECORDED NOVEMBER 8, 1885 AS DOCUMENT 770685 (BUT OMITTING ANY SUCH COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT THAT SAID COVENANT (A) IS EXEMPT UNDER CHAPTER 12, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSONS) THAT BUILDING LINE AS SHOWN ON PLAT BE OBSERVED AND NO PROJECTION ON ANY SUCH BUILDING SHALL BE NEARER TO ONTARIO STREET THAN 15 FEET.
10. ENCROACHMENT OF THE BUILDING LOCATED MAINLY ON THE LAND OVER THE EAST LINE BY APPROXIMATE 0.87 FEET TO 0.48 FEET AS SHOWN ON PLAT OF SURVEY MADE BY MM SURVEYING CO., INC., DATED DECEMBER 24, 2013, ORDER NO. 75791, LAST REVISED MAY 20, 2014.
11. ENCROACHMENT OF THE WOOD RETAINING WALL OVER THE SOUTHERLY PROPERTY LINE AND THE EASTERLY PROPERTY LINE, AS DISCLOSED BY SURVEY MADE BY MM SURVEYING CO., INC., DATED DECEMBER 24, 2013, ORDER NO. 75791, LAST REVISED MAY 20, 2014.
12. VIOLATION OF THE BUILDING LINE NOTED ABOVE AT EXCEPTION REFERENCE N (SUBDIVISION BUILDING LINE) THE 3 STORY AND BASEMENT BRICK BUILDING; AND VIOLATION OF SAID BUILDING LINE AND THE BUILDING LINE NOTED ABOVE AT EXCEPTION REFERENCE LETTER Z (DEED BUILDING LINE) BY THE 3 STORY ADDITION ALONG FRONT (SOUTH) SIDE OF PARCEL 2, AS SHOWN ON PLAT OF SURVEY MADE BY MM SURVEYING CO., INC., DATED DECEMBER 24, 2013, ORDER NO. 75791, LAST REVISED MAY 20, 2014.
13. ENCROACHMENT OF THE OVERHEAD SIGNS AND CANOPY, LOCATED MAINLY ON THE LAND ONTO THE PUBLIC RIGHT OF WAY SOUTH AND ADJOINING, AS SHOWN ON PLAT OF SURVEY MADE BY MM SURVEYING CO., INC., DATED DECEMBER 24, 2013, ORDER NO. 75791, LAST REVISED MAY 20, 2014.
14. MORTGAGE, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS DATED MAY 30, 2014 AND RECORDED JUNE 4, 2014 AS DOCUMENT 1415519029 MADE BY SMASHOTELS CHICAGO, LLC TO ASSOCIATED BANK, NATIONAL ASSOCIATION TO SECURE A NOTE FOR \$4,420,000.00.



# UNOFFICIAL COPY

15. ASSIGNMENT OF LEASES AND RENTS RECORDED JUNE 4, 2014 AS DOCUMENT NO. 1415519030 MADE BY SMASHOTELS CHICAGO, LLC, TO ASSOCIATED BANK, NATIONAL ASSOCIATION.

Property of Cook County Clerk's Office