

# UNOFFICIAL COPY

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## GIT

Doc# 1715357047 Fee \$88.00

PREPARED BY, AND AFTER  
RECORDING AND WHEN RECORDED  
RETURN TO:

RHSP FEE:\$9.00 RPRF FEE: \$1.00  
KAREN A. YARBROUGH  
COOK COUNTY RECORDER OF DEEDS  
DATE: 06/02/2017 11:15 AM PG: 1 OF 9

Bofl Federal Bank  
4350 La Jolla Village Drive, Ste. 140  
San Diego, California 92122  
Attn: Loan Servicing

(Space Above For Recorder's Use Only)

### ASSIGNMENT OF RENTS AND LEASES

This Assignment of Rents and Leases (this "Agreement") is entered into as of **May 15, 2017** by **TSUTOMU YAMAJI**, an individual ("Borrower"), whose address for notice hereunder is **c/o Saratoga Property Advisors, LLC, 222 S. Morgan Street, Unit 4D, Chicago, Illinois 60607**, to **BOFI FEDERAL BANK**, a federal savings bank ("Lender"), whose address is **4350 La Jolla Village Drive, Ste. 140, San Diego, California 92122**, Attn: Loan Servicing.

### AGREEMENT

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender agree as follows:

1. Absolute Assignment. Borrower unconditionally and absolutely assigns to Lender all of Borrower's right, title and interest in and to: (a) all leases, subleases, occupancy agreements, licenses, usufructs, rental contracts and other agreements now or hereafter existing relating to the use or occupancy of the project located on the real property described in Exhibit A hereto (the "**Property**"), together with all guarantees, modifications, extensions and renewals thereof (collectively, the "**Leases**"); and (b) all rents, issues, profits, income and proceeds due or to become due from tenants of the Property, including rentals and all other payments of any kind under the Leases, together with all deposits (including security deposits) of tenants thereunder (collectively, the "**Rents**"). This Agreement is an absolute assignment to Lender and not an assignment as security for the performance of the obligations under the Loan Documents (defined below), or any other indebtedness.

2. Rights of Lender. Subject to the provisions of Section 6 below, Lender shall have the right, power and authority to: (a) notify any person that the Leases have been assigned to Lender and that all Rents are to be paid directly to Lender, whether or not Lender has commenced or completed foreclosure or taken possession of the Property; (b) settle, compromise, release, extend the time of payment of, and make allowances, adjustments and discounts of any Rents or other obligations under the Leases; (c) enforce payment of Rents and other rights under the Leases, prosecute any action or proceeding, and defend against any claim

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with respect to Rents and Leases; (d) enter upon, take possession of and operate the Property; (e) lease all or any part of the Property; and/or (f) perform any and all obligations of Borrower under the Leases and exercise any and all rights of Borrower therein contained to the full extent of Borrower's rights and obligations thereunder, with or without the bringing of any action or the appointment of a receiver. At Lender's request, Borrower shall deliver a copy of this Agreement to each tenant under a Lease and to each manager and managing agent or operator of the Property. Borrower irrevocably directs any tenant, manager, managing agent, or operator of the Property, without any requirement for notice to or consent by Borrower, to comply with all demands of Lender given in compliance with this Agreement and to turn over to Lender on demand all Rents which it receives.

3. No Obligation. Notwithstanding Lender's rights hereunder, Lender shall not be obligated to perform and Lender does not undertake to perform, any obligation, duty or liability with respect to the Leases, Rents or Property on account of this Agreement. Lender shall have no responsibility on account of this Agreement for the control, care, maintenance or repair of the Property, for any waste committed on the Property, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property.

4. Right to Apply Rents. Lender shall have the right, but not the obligation, to use and apply any Rents received hereunder in such order and such manner as Lender may determine for:

(a) Enforcement or Defense. The payment of costs and expenses of enforcing or defending the terms of this Agreement or the rights of Lender hereunder, and collecting any Rents;

(b) Loan Payments. Interest, principal or other amounts payable pursuant to that certain (i) Loan Agreement of even date herewith between Lender and Borrower (the "**Loan Agreement**"); (ii) Secured Promissory Note, in the original principal amount of **\$2,550,000.00** of even date herewith, bearing interest and payable to the order of Lender (the "**Note**"); (iii) Mortgage, Assignment of Rents, Security Agreement and Fixture Filing of even date herewith, executed by Borrower for the benefit of Lender and relating to the Property (the "**Mortgage**"); and (iv) and all other documents and instruments secured by the Mortgage (excluding the any Environmental Indemnity or Guaranty (as defined in the Loan Agreement, or any other document not secured by a specifically excluded from being secured by the Mortgage) (the "**Loan**") and any and all modifications, amendments or extensions thereof or replacements or substitutions therefor (the Loan Agreement, the Note, the Mortgage, such other documents and instruments, and such modifications, amendments, extensions, replacements, and substitutions thereof being herein collectively called the "**Loan Documents**"); and

(c) Operating Expenses. Payment of costs and expenses of the operation and maintenance of the Property, including (i) rentals and other charges payable by Borrower under any ground lease or other agreement affecting the Property; (ii) electricity, telephone, water and other utility costs, taxes, assessments, water charges and sewer rents and other utility and governmental charges levied, assessed or imposed against the Property; (iii) insurance premiums; (iv) costs and expenses with respect to any litigation affecting the Property, the Leases or the

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Rents; (v) wages and salaries of employees, commissions of agents and attorneys' fees and expenses; and (vi) all other carrying costs, fees, charges, reserves, and expenses whatsoever relating to the Property.

After the payment of all such costs and expenses and after Lender has established such reserves as it, in its sole discretion, deems necessary for the proper management of the Property, Lender shall apply all remaining Rents received by it to the reduction of the Loan.

5. No Waiver. The exercise or nonexercise by Lender of the rights granted in this Agreement or the collection and application of Rents by Lender or its agent shall not be a waiver of any default by Borrower under this Agreement or any other Loan Document. No action or failure to act by Lender with respect to any obligations of Borrower under the Loan Documents, or any security or guaranty given for the payment or performance thereof, shall in any manner affect, impair or prejudice any of Lender's rights and privileges under this Agreement, or discharge, release or modify any of Borrower's duties or obligations hereunder.

6. Revocable License. Notwithstanding that this Agreement is an absolute assignment of the Rents and Leases and not merely the collateral assignment of, or the grant of a lien or security interest in the Rents and Leases, except as provided below, Lender grants to Borrower a revocable license to collect and receive the Rents and to retain, use and enjoy such Rents. Such license may be revoked by Lender at any time a Potential Default (as defined in the Loan Agreement) exists, and is automatically revoked, without notice to or demand upon Borrower, upon the occurrence of any Event of Default (as defined in the Loan Agreement) and Lender shall immediately be entitled to receive and apply all Rents, whether or not Lender enters upon and takes control of the Property. Prior to such revocation, Borrower shall apply any Rents which it receives to the payment of debt service on the Note and other payments due under the Loan Agreement, taxes, assessments, water charges, sewer rents and other governmental charges levied, assessed or imposed against the Property, insurance premiums, operation and maintenance charges relating to the Property, and other obligations of lessor under the Leases before using such proceeds for any other purpose.

7. Term. This Agreement shall continue in full force and effect until (a) all amounts due under the Loan Documents are paid in full, and (b) all other obligations of Borrower under the Loan Documents (other than contingent obligations for which no demand has been made) are fully satisfied.

8. Appointment. Borrower irrevocably appoints Lender its true and lawful attorney in fact, which appointment is coupled with an interest, to, during the continuance of an Event of Default, execute any or all of the rights or powers described herein with the same force and effect as if executed by Borrower, and Borrower ratifies and confirms any and all acts done or omitted to be done by Lender, its agents, servants, employees or attorneys in, to or about the Property.

9. Liability of Lender. Lender shall not in any way be liable to Borrower for any action or inaction of Lender, its employees or agents under this Agreement

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10. Indemnification. Borrower shall indemnify, defend and hold harmless Lender from and against all liability, loss, damage, cost or expense which it may incur under this Agreement or under any of the Leases, including any claim against Lender by reason of any alleged obligation, undertaking, action, or inaction on its part to perform or discharge any terms, covenants or conditions of the Leases or with respect to Rents, and including attorneys' fees and expenses, including those arising from the joint, concurrent, or comparative negligence of Lender; however, Borrower shall not be liable under such indemnification to the extent such liability, loss, damage, cost or expense to the extent it results from Lender's gross negligence or willful misconduct. Any amount covered by this indemnity shall be paid by Borrower to Lender within five (5) days of Lender's written demand, and shall bear interest from the date of demand until the same is paid by Borrower to Lender at a rate equal to the Default Rate (as defined in the Loan Agreement) if not received by Lender within five (5) days of Lender's written demand.

11. Modification. This Agreement may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of such change is sought.

12. Successors and Assigns. This Agreement shall inure to the benefit of Lender and its successors and assigns and shall be binding on Borrower and its successors and assigns.

13. Governing Law. This Agreement shall be governed and construed in accordance with the laws of where the Property is located

14. Conflict. If any conflict or inconsistency exists between the absolute assignment of the Rents and the Leases in this Agreement and the assignment of the Rents and Leases as security in the Mortgage, the terms of this Agreement shall control.

15. Counterparts. This Agreement may be executed and recorded in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

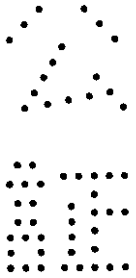
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IN WITNESS WHEREOF, Borrower has caused this Assignment of Rents and Leases to be duly executed and delivered on the date first above written.

**BORROWER:**



Tsutomu Yamaji



Property of Cook County Clerk's Office

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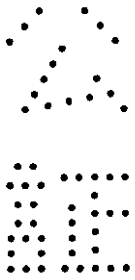
State of \_\_\_\_\_  
County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_ who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_  
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_



Property of Cook County Clerk's Office

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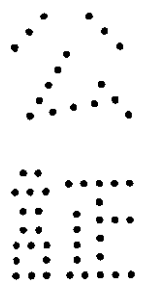
## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

PARCEL 1: LOT 23 AND THE WEST 4 FEET OF LOT 22 IN THE SUBDIVISION OF THE NORTH PART OF BLOCK 2 IN SUFFERN'S SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: THE WEST 8 FEET OF LOT 21 AND THE EAST 20 FEET OF LOT 22 IN THE SUBDIVISION OF THE NORTH PART OF BLOCK 2 IN SUFFERN'S SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS: 2151-53 WEST DIVISION STREET, CHICAGO, IL 60622  
PIN # 17-06-302-003-0000  
17-06-302-002-0000





嘱託人 山路 孟 の代理人 中川 翼 は、当公証人の前で嘱託人が添付書面にある嘱託人の署名を自認した旨陳述した。

以上

よって、これを認証する。

平成 29 年 5 月 19 日、本公証人役場において

大阪市西区江戸堀1丁目10番8号

大阪法務局所属

公証人

Notary

高田泰治

Yasuharu TAKADA



証 明

上記署名は、大阪法務局所属公証人の署名に相違ないものであり、かつ、その押印は、真実のものであることを証明する。

平成 29 年 5 月 19 日

大阪法務局長

森本 司 邦 裕



APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: JAPAN

This public document

2. has been signed by **Yasuharu TAKADA**

3. acting in the capacity of Notary of the Osaka Legal Affairs Bureau

4. bears the seal/stamp of **Yasuharu TAKADA, Notary**  
Certified

5. at Osaka

6. MAY, 19, 2017

7. by the Ministry of Foreign Affairs

8. 17-No 003839

9. Seal/stamp:

10. Signature



Naomi Asano

Naomi ASANO

For the Minister for Foreign Affairs



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Registered No, 288 of 2017

## NOTARIAL CERTIFICATE

This is to certify that Tsubasa Nakagawa, an agent of Tsutomu Yamaji has stated in my very presence that said Tsutomu Yamaji acknowledged himself to have signed to the attached document.

Dated this 19th. day of May, 2017

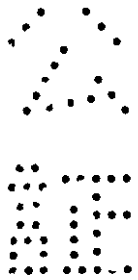
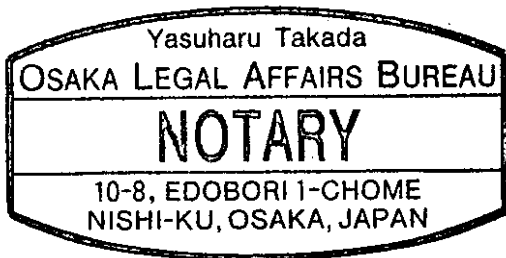
Osaka Legal Affairs Bureau

Notary

*Yasuharu Takada*

Yasuharu Takada

10-8, Edobori 1-chome Nishi-ku, Osaka Japan



Property of Cook County Clerk's Office