2014-002756

Klamath County, Oregon

03/31/2014 11:24:37 AM

Fee: \$92.00

Grantor: Washburn Way Industrial Park LLC

Grantee: First Republic Bank

Recording Requested by and when Recorded Return to:

First Republic Bank 111 Pine Street San Francisco, CA 94111 Attn: Loan Review

Loan No. 27-518087-2



FIRST REPUBLIC BANK

It's a privilege to serve you®

ASSIGNMENT OF LEASES

This Assignment is dated as of March 19, 2014, and is by and between Washburn Way Industrial Park LLC, an Oregon limited liability company ("Assignor") to First Republic Bank (including its successors and assigns, "Assignee").

RECITALS

A. Assignee has agreed to make a loan to Assignor (the "Loan"), evidenced by Assignor's promissory note to Assignee, of even date herewith, in the original principal amount of Nine Hundred Fifty Thousand and 00/100 Dollars (\$950,000.00) (the "Note").

B. Repayment of the amounts due under the Note, and Assignor's obligations under the Note and all other documents entered into by Assignor in connection with the Loan (collectively, together with the Note and this Assignment, the "Loan Documents"), are secured by (among other things) a Deed of Trust of even date herewith, given by Assignor for the benefit of Assignee (the "Deed of Trust"), encumbering that certain parcel of real property more particularly described in Schedule "1" hereto (the "Real Property"). The Real Property and all improvements now or here-after located or constructed thereon are sometimes hereinafter referred to collectively as the "Property."

NOW, THEREFORE, in order to induce Assignee to make the Loan, Assignor hereby agrees as follows:

1. Assignment by Assignor. Assignor hereby absolutely and irrevocably assigns to Assignee all of Assignor's right, title, and interest in and to any and all leases, tenancies or occupancy agreements now or hereafter affecting the Property, together with all renewals, extensions, modifications, amendments, assignments and subleases thereof (all of which are sometimes hereinafter referred to collectively as the "Leases"), together with any and all rents, income, receipts, revenues, issues and profits therefrom now due, and which accrue and become payable in future, including (but not limited to) minimum rents, additional rents, percentage rents, parking fees, common area maintenance charges or pass-throughs, tax and insurance contributions, deficiency rents, liquidated damages following default, premiums payable upon the exercise of a cancellation privilege, and all proceeds payable under any policy of insurance covering loss of rents, and any and all rights and claims of any kind which Assignor may have against any obligor under any of the Leases, any subtenants or assignees of any interest under any of the Leases, any guarantors of any of the obligations under any of the Leases, or any occupants of the Property (all of which monies, rights and claims are sometimes hereinafter referred to collectively as the "Rents"). The Leases

Chicago Title (1) 47251451444512-50-00MM

include (without limitation) those leases described in Schedule "2" hereto. The assignment made herein is intended by the parties to be an absolute assignment, and not an assignment as additional security.

- 2. Assignor's Right to Collect Rents and Enforce Leases. For so long as no event of default has occurred under this Assignment, Assignor shall retain the conditional right to collect all of the Rents as they become due (but not in advance) and shall hold the Rents so collected in trust, to be applied: (a) first, to the payment of all impositions, levies, taxes, assessments and other charges upon the Property; (b) second, to the cost of the maintenance of required insurance policies upon the Property; (c) third, to any maintenance of and repairs to the Property required by the Deed of Trust; and (d) lastly, to the payment of obligations under the Note, the Deed of Trust, and all other documents entered into in connection with the Loan (collectively, the "Loan Documents"); before using any part of the Rents for any other purposes.
- 3. Verification of Information. Assignee and its agents shall at all times have the right to verify the validity, amount of or any other matter relating to any or all of the Leases (whether by mail, telephone, telegraph or otherwise) in the name of Assignor, Assignee, a nominee of Assignee, or any or all of such parties.
- 4. Covenants and Agreement of Assignor. In addition to its other covenants and agreements contained in this Assignment, Assignor covenants and agrees to and with Assignee that, except to the extent that Assignee notifies Assignor in writing that Assignee dispenses with any one or more of the following requirements, Assignor shall:
 - (a) observe, perform and discharge, duly and punctually, all of the obligations, covenants, and agreements of the lessor under the Leases, and give prompt notice to Assignee of any failure on the part of Assignor to observe, perform and discharge any of such obligations, covenants or agreements;
 - (b) enforce or secure the performance of each and every obligation, covenant, and agreement in each of the Leases to be performed by any obligor thereunder;
 - (c) not receive or collect any of the Rents for a period of more than one month in advance (whether in cash, by promissory note, or otherwise), or pledge, transfer, Deed of Trust or otherwise encumber or assign future payments of any of the Rents, without the prior written consent of Assignee;
 - (d) not waive, excuse, condone, discount, setoff, compromise or in any manner release or discharge any obligor under any of the Leases of or from any obligations, covenants, or agree-ments to be kept, observed or performed by such obligor, including the obligation to pay the Rents due under such obligor's Lease in the manner and at the place and time specified therein, without the prior written consent of Assignee;
 - (e) not permit or agree to any assignment, sublease, extension, or other material change or modification of any kind or nature of or with respect to any of the Leases, or the terms thereof without the prior written consent of Assignee;
 - not agree to the cancellation or termination of any of the Leases (in whole or in part) without the prior written consent of Assignee.
 - (g) not execute any new Leases without the prior written consent of Assignee;
 - (h) promptly upon Assignor's receipt or learning thereof, inform Assignee in writing of any assertion of any mater-ial claims, offsets or counterclaims by any of the obligors under any of the Leases;
 - (i) promptly upon Assignor's receipt or learning thereof, furnish to and inform Assignee of all material adverse information relating to or affecting the financial condition of any obligor under any of the Leases;
 - appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases, or the obligations, duties or liabilities of Assignor and/or any obligor thereunder;
 - (k) obtain copies of the Leases, with appropriate endorsements and/or other specific evidence of assignment thereof to Assignee (which endorsement and/or assignment shall be in form and substance acceptable to Assignee), and direct all obligors under the Leases then and there-after to make all payments then and thereafter due from them under the Leases directly to Assignee.

- 5. Representations and Warranties of Assignor. Assignor hereby represents and warrants to Assignee that:
 - (a) Assignor is the absolute owner of the Leases, with full right and title to assign the same, together with the Rents;
 - (b) there is no outstanding assignment or pledge of the Leases or the Rents;
 - (c) no default exists under any of the Leases on the part of either party, and no tenant has a defense, setoff or counterclaim against Assignor under any of the Leases;
 - (d) no Rents have been anticipated, discounted, released, waived, compromised or otherwise discharged, except as specifically set forth in the Leases or otherwise permitted herein, and Assignor has not received any funds or deposits from any obligor under any of the Leases in excess of one month's rent for which credit has not already been made on account of accrued rents; and
 - (e) the Leases listed on Schedule "2" to this Assignment constitute all of the Leases in effect as of the date of this Assignment.
- 6. Default. It shall constitute an event of default under this Agreement if:
 - (a) any event of default by Assignor occurs under the Note, the Deed of Trust, or any of the other Loan Documents;
 - (b) Assignor fails to perform fully, and in a timely manner, any covenant or agreement of Assignor contained in this Assignment; or
 - (c) any of Assignor's representations or warranties contained in this Assignment prove to be untrue.
- 7. Remedies. If any event of default occurs under this Assignment, then, for so long as such event of default shall not have been cured fully (if such cure is permitted by Assignee or Assignee is required by applicable law to allow Assignor to cure such default), following written notice to Assignor of Assignee's intention to collect the Rents, the right of Assignor to collect the Rents shall cease, and Assignee may, in its own name and capacity or through its agents, in its sole discretion, and at any time and from time to time after the occurrence of such event of default, do any, some or all or the following:
 - (a) enter upon and take possession of the Property, or any part thereof, either in person or by agent, or by a receiver to be appointed by a court (to which appointment by court order Assignee shall be entitled as a matter of right);
 - (b) with or without taking possession of the Property, sue for or otherwise collect all Rents, including those past due and unpaid, and apply all sums so collected (by Assignee or any receiver), less the costs and expenses of operation and collection (including, but not limited to, reasonable attorneys' fees), against any indebtedness secured by the Deed of Trust, and in such order as Assignee may in its sole judgement determine to be appropriate;
 - (c) perform all acts necessary for the operation and maintenance of the Property, in the same manner and to the same extent that Assignor might reasonably do;
 - enforce the performance of any or all of the covenants and provisions of the Leases, by legal proceedings or otherwise, and exercise all of the rights and privileges of the landlord thereunder, including (but not limited to) the right to: fix, modify and reduce rents; demand and sue for possession of the premises covered by any Lease; relet any or all of the leased premises (or any part or parts of any of them), and collect the Rents under any and all new leases thereby created; compromise and settle any disputes with any tenants of the Property; make, modify, enforce, cancel or accept surrender of any of the Leases; remove evict any lessee or any subtenant or assignee of any lessee; decorate, clean and make repairs; and otherwise do any act or incur any costs or expense which Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession; and in so doing apply the Rents collected to the operation, management and maintenance of the Property, in such order as Assignee may deem proper, including (but not limited to) payment of reasonable management, brokerage and attorneys' fees, in the name of Assignor, Assignee, a nominee of Assignee, or in any or all of such names;

- (e) without the need to give any notice thereof to Assignor, declare all sums secured hereby immediately due and pay-able and, at its option, exercise any or all of the rights and remedies contained in the Note or the other Loan Documents; and
- (f) exercise any other rights or remedies available under applicable law.

If, after the occurrence of any event of default, Assignee is required by law to permit Assignor to cure such default, or Assignee agrees to allow Assignor to cure such default, and Assignor fully cures such default and reimburses Assignee for all costs and expenses incurred by Assignee due to that default, then Assignor shall once again have the conditional rights provided under Paragraph 2 above, for so long as no further event of default occurs under this Assignment.

- 8. Assignee as Attorney in Fact. In order to further the remedies of Assignee set out in this Assignment as being available upon default hereunder by Assignor, Assignor hereby irrevocably designates, makes, constitutes and appoints Assignee (and all persons designated by Assignee) as Assignor's true and lawful attorney and agent-in-fact, with the power to do any of the following at any time or times after the occurrence of an event of default under this Assignment, without the need to give any notice to Assignor, in the name of Assignor, Assignee or in both names: (a) demand and enforce payment of the Rents and performance of the Leases (whether by legal proceedings or otherwise); (b) exercise all of Assignor's rights, interests and remedies in, under and to the Leases; (c) settle, adjust, compromise, extend or renew the Leases and/or the Rents; (d) settle, adjust or compromise any legal proceeding brought to collect the Rents or obtain performance of the Leases; (e) take control, in any manner, of the Leases and Rents; (f) prepare, file, and sign Assignor's name on any Proof of Claim in bankruptcy, or similar document in a similar proceeding, against any obligor under any of the Leases; (g) endorse the name of Assignor upon any payment or proceeds of the Rents, and deposit the same to the account of Assignee; and (h) do all acts and things necessary, in Assignee's sole discretion, to carry out any or all of the foregoing.
- 9. Indemnification of Assignee. Assignee shall not be responsible for the performance of any of the terms or provisions contained in the Leases, nor shall any other obligation be imposed on assignee, including, without limitation, any liability under any covenant of quiet enjoyment contained in any of the Leases, unless and until Assignee actually enters upon and takes possession of the Property. Assignor shall indemnify and defend Assignee against, and hold Assignee harmless from, any and all claims, damages, lia-bility, loss or expenses which Assignee may incur or suffer, or to which Assignee may be subjected, with respect to any of the Leases, or by reason of any alleged obligation or undertaking to be per-formed or discharged by the Assignor under the Leases, prior to such possession by Assignee, including (but not limited to) any claim by any obligor under a Lease for credit for rental paid or allegedly paid to and received by Assignor, but not delivered to Assignee, for any period under any of the Leases more than one month in advance of the due date thereof.
- 10. No Waiver. The failure of Assignee to exercise any given remedy or option in the event of default under this Assignment shall not constitute a waiver of the right to exercise the same or any other remedy at any subsequent time with respect to the same or any other default. No exercise by Assignee of any of the rights granted to Assignee herein shall waive or cure any default or notice of default hereunder. No curing of any event of default by Assignor, if permitted by Assignee or if Assignee is required by law to permit such cure, shall diminish Assignee's rights hereunder with respect to any subsequent event of default.
- 11. Modification of Loan Documents. No modification or variation of the terms of any of the Loan Documents, including (but not limited to) any change in the principal amount of or the rate of interest to be paid under the Note, or any extension of time for payment thereunder, shall affect this Assignment, and this Assignment shall remain in full force and effect despite any such modification.
- 12. Prepaid Rents. Assignor hereby assigns to Assignee all prepaid rents and all monies which may have been or may here-after be deposited with Assignor by any tenant under the Leases to secure the payment of rent and/or performance of the Lease. So long as no event of default is outstanding, Assignor shall hold all such prepaid rents and deposits in trust for the benefit of Assignee. Upon the occurrence of any such event of default, and upon

written notice from Assignee to Assignor, Assignor shall promptly deliver such prepaid rents and deposits to Assignee.

- 13. Assignment of Rents. This Assignment is intended to be supplementary to, and not in substitution for or in derogation of, any assignment of rents contained in the Security Agreement or the Deed of Trust.
- 14. Termination of Assignment. This Assignment shall automatically terminate and the Leases shall be deemed reassigned to Assignor upon the recordation, in the Official Records of KLAMATH County, of a full reconveyance of the Deed of Trust.
- 15. Further Assurances. Assignor shall execute such other documents and perform such other acts as may be necessary or desirable from time to time to carry out the purposes of this Assignment, including, but not limited to, the execution and filing of such UCC financing statements and continuation statements, and amendments thereto, as Assignee may request to perfect the interest of Assignee in the Leases and Rents hereby created.
- Assignee's Status. The acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority herein created, shall not, prior to entry upon and taking of possession of the Property by Assignee, be deemed or construed to constitute Assignee a Deed of Trust in possession of the Property, or any part thereof, nor thereafter or at any time or in any event obligate Assignce to: appear in or defend any action or proceeding relating to the Leases, the Rents or the Property; take any action hereunder, expend any money, incur any expenses, or perform or discharge any obligation, duty or liability under the Leases; or assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any obligor under any of the Leases which are not both assigned and delivered to Assignee; nor shall Assignee be liable in any way for any injury or damage to person or property sustained by any person or entity in or about the Property. No collection of Rents or application thereof as provided herein, or entry upon or taking possession of the Property, shall cure, waive, modify or affect any notice of default under the Note, the Deed of Trust or the other Loan Documents so as to invalidate any act done pursuant to such notice, and the enforce-ment of such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect, whether or not the collection and application of the Rents has cured for the time being the original default. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default, whether of the same or a different nature.
- 17. Notices. All notices and demands of any kind which the parties hereto may be required or may desire to give to or make on one another in connection with this Agreement or any of the other Loan Documents shall be in writing, and shall either be served personally or by registered or certified mail, return receipt requested. Any such notice or demand so served by registered or certified mail shall be deposited in the United States mail with postage thereon fully prepaid, addressed to the party to be served as follows:

If to Assignee: First Republic Bank

111 Pine Street San Francisco, CA 94111

Attn: Loan Administration

If to Assignor: Washburn Way Industrial Park

LLC 3611 SE 20th Ave #300 Portland, OR 97202 Attn: Kelly Bruun

Each such notice or demand shall be deemed to have been given or made on the day of actual delivery, or at the expiration of the third day after the date of being so mailed, whichever is earlier in time, unless the 'Actual receipt of the notice or demand is called for in this Agreement, in which case it shall be deemed to have been given or made only on the date of such actual receipt. Any party hereto may from time to time, by notice in writing given in the aforesaid manner, designate different mailing addresses or persons to which or to whom such notices or demands are thereafter to be addressed, but such change of address or change of party to be addressed shall be effective only upon actual receipt.

- 18. Headings. The headings of the various paragraphs hereof are intended solely for means of reference, and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Assignment.
- 19. Invalidity. If any provision of this Assignment or the application thereof to any person(s) or circumstance(s) shall to any extent be held to be invalid or unenforceable, neither the remainder of this assignment nor the application of such provision to any person(s) or circumstance(s) other than those as to whom or which it is held to be invalid or unenforceable shall be affected thereby, and every provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law.
- 20. Attorneys' Fees. In the event of any litigation involving Assignor and Assignce for the enforcement of any of the provisions of this Assignment, or any right of either of them hereunder, the unsuccessful party in such litigation hereby agrees to pay to the successful party all costs and expenses, including (but not limited to) reasonable attorneys' fees and court costs (whether incurred at the trial, appellate or administrative levels) incurred by the successful party in such litigation, all of which may be included in, and as part of, any judgement or decision rendered in such litigation.
- 21. Entire Agreement. The terms of this Assignment are intended by Assignor and Assignee as a final expression of their agreement with respect to the subject matter hereof, and may not be contradicted by evidence of any prior or contemporaneous agreement. Such parties further intend that this Assignment constitute the complete and exclusive statement of its terms, and that no extrinsic evidence whatsoever may be introduced in any proceedings, if any (judicial or otherwise), involving this Assignment, except for evidence of a subsequent written amendment.
- 22. Modification. This Assignment may not be modified, amended or otherwise changed in any manner, except by a written amendment signed by both Assignor and Assignee, or their respective successors in interest.
- 23. Successors. All of the terms, covenants and conditions of this Assignment shall be binding upon, and shall inure to the benefit of, the heirs, executors, administrators, successors and permitted assigns of Assignor and Assignee.
- 24. Time of the Essence. Time is of the essence in this Assignment.
- 25. Cumulative Rights. The rights, powers, and remedies given to Assignee pursuant to this Assignment shall be in addition to all rights, powers and remedies given to Assignee by virtue of any applicable governmental law, ordinance, rule, regulation or requirement. No forbearance, failure or delay by Assignee in exercising any right, power or remedy granted to Assignee hereunder shall be deemed a waiver of such right, power or remedy, nor shall any such forbearance, failure or delay preclude the further exercise of such right, power or remedy, or any other right, power or remedy; and every such right, power and remedy of Assignee shall continue in full force and effect until such right, power or remedy is specifically waived by Assignee in writing.
- 26. Recitals and Exhibits. The Recitals at the beginning of this Assignment are accurate and shall constitute an integral part of this Assignment, and this Assignment shall be construed in light of those Recitals. The exhibits and schedules (if any) attached to and referred to in this Assignment are hereby incorporated into this Assignment as fully as if set out in their entirety herein.
- 27. Pronouns and Conjunctions. In this Assignment, personal pronouns shall be construed as though of the gender and number required by the context (the singular including the plural, the plural including the singular, and each gender including other genders, all as may be required by the context). Wherever in this Assignment the term "and/or" is used, it shall mean one or the other, both, any one or more, or all of the things, events, persons or parties in connection with which the term is used.

28. Governing Law. This Assignment shall be governed by, and construed in accordance with, the laws of the State of Oregon.

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date first written above.

Washburn Way Industrial Park LLC, an Oregon limited liability company

Kelly Bruun, Its: Sole Member

SCHEDULE "1"

Property Address 4100 - 4168 Washburn Way Klamath Falls, OR 97603

Legal Description of Real Property to Assignment of Leases dated March 19, 2014, and between Washburn Way Industrial Park LLC, an Oregon limited liability company ("Assignor") to First Republic Bank ("Assignee") described as follow or on attached page(s).



CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

County of PIVERSIDE On 3/26/14 before me, GIOVAMIT A. SAGWINOTARY PUBLIC, (Here insert name and title of the officer) personally appeared KEUY CHRIS BRUUN 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 California that the foregoing paragraph is true and correct. GIOVANNI A. SAGUN Commission # 1956015 Notary Public - California WITNESS my hand and official seal. Riverside County My Comm. Expires Oct 10, 2015 (Notary Seal) Signature of Notary Public ADDITIONAL OPTIONAL INFORMATION DESCRIPTION OF THE ATTACHED DOCUMENT ASSIGNMENT OF LEASES (Title or description of attached document) (Title or description of attached document continued) Number of Pages Document Date must also be the same date the acknowledgment is completed. (Additional information)

CAPACITY CLAIMED BY THE SIGNER

□ Individual (s)

State of California

Corporate Officer

(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- · State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is fare) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- · The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - Indicate title or type of attached document, number of pages and date.
 - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary). •

Securely attach this document to the signed document

EXHIBIT "A" LEGAL DESCRIPTION

PARCEL 1

The N1/2 of the following described parcel of land:

All that portion of the E1/2 of the NE1/4 of the SE1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, which lies Southerly of line drawn parallel to and distant 330 feet Northerly of the Southerly boundary of the said East half of the NE1/4 of the SE1/4, situated in the County of Klamath, State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Klamath County by Warranty Deed recorded February 2, 1988 in Volume M88, page 1442, Microfilm Records of Klamath County, Oregon.

PARCEL 2

The S1/2 of that part of the E1/2 of the NE1/4 of the SE1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, lying South of a line drawn parallel to a 330 feet Northerly of the Southerly line of said E1/2 of the NE1/4 of the SE1/4, the S1/2 of the Southerly 330 feet measured parallel with the Southerly line of the E1/2 of the NE1/4 of the SE1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

EXCEPTING THEREFROM the East 20 feet deeded to Klamath County for road in Volume 336, page 306, Deed Records of Klamath County, Oregon.

ALSO EXCEPTING THEREFROM that portion conveyed to Klamath County by instrument recorded February 2, 1988 in Volume M88, page 1442 and 1451, Microfilm Records of Klamath County, Oregon.

SCHEDULE "2"

ALL LEASES CURRENTLY EXISTING AND ALL LEASES CREATED HEREAFTER.

Schedule of Leases

Lease Date

Tenant