



RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

2014-008564

Klamath County, Oregon

08/15/2014 02:13:42 PM

Fee: \$77.00

First Republic Bank  
111 Pine Street  
San Francisco, CA 94111  
ATTN: Loan Review Department  
RE: Loan # 27-518087-2

### **SPECIFIC ASSIGNMENT, SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT**

NOTICE: THIS SPECIFIC ASSIGNMENT, SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT RESULTS IN YOUR LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT is entered into this 15 day of March, 2014, by and among Southern Oregon Goodwill Industries ("Tenant"), Washburn Way Industrial Park LLC ("Borrower"), and First Republic Bank ("Lender").

#### **RECITALS**

- A. Tenant is the lessee and Borrower is the lessor under that certain lease dated September 19, 2012 (the "Lease"), a memorandum of which was recorded on Aug. 15, 2014 with Recorders Fee Number 2014 8556.
- B. Borrower has requested that Lender make a loan to Borrower to be secured by a Deed of Trust from Borrower to Lender (the "Deed of Trust"), covering the property wherein the premises (the "Premises") covered by the Lease are located, which Property is described more fully in Exhibit "A" attached hereto (the "Property").
- C. Lender is willing to make the requested loan (the "Loan"), provided that, among other things as a condition precedent thereto, Borrower and Tenant execute this Agreement.

#### **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to make the requested loan, Tenant, Borrower, and Lender hereby agree and covenant as follows:

1. Borrower does hereby absolutely and presently grant, transfer, and assign to Lender the Lease and all rents and other sums payable under the Lease; provided, however, that until written demand is made by Lender to Tenant, all rents and other sums payable under the Lease shall be paid to Borrower, but only as they accrue.
2. Tenant and Lender hereby agree that the Lease (including specifically, without limitation, any option or options to purchase or rights of first refusal affecting the Property, or any portion thereof, contained therein) is and shall at all times be subject and subordinate in all respects (a) to the Deed of Trust and all other loan documents executed in connection therewith (the "Loan Documents"), and to all renewals, modifications, extensions, substitutions, rearrangements and/or replacements thereof, and (b) to any and all renewals, modifications, replacements, extensions substitutions and/or rearrangements of any and all obligations and indebtedness secured by the Deed of Trust, subject, however, to the terms and conditions hereinafter set forth in this Agreement.

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3. If the interests of Borrower are acquired by Lender or any successor to or transferee of Lender, including, without limitation, any purchaser at a foreclosure sale, whether by foreclosure, deed in lieu of foreclosure or any other method (any such successor, assignee or transferee and its successors and assignee being hereinafter referred to as "Purchaser"), the Lease and the rights of Tenant thereunder shall continue in full force and effect and shall not be terminated or disturbed except in accordance with the terms of the Lease or this Agreement. Tenant shall be bound to Lender, or any Purchaser under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, and any extension or renewal thereof which may be effected in accordance with any option contained in the Lease, with the same force and effect as if Lender or Purchaser were named lessor under the Lease, and Tenant does hereby attorn to Lender, its successors and assigns, as its lessor, said attornment to be effective and self-operative immediately upon Lender or Purchaser succeeding to the interest of Borrower under the Lease without the execution of any other or further instruments on the part of any party hereto. Tenant covenants and agrees for time to time to do all acts and execute all such instruments as it shall be requested by Lender or Purchaser to do or execute for the purposes fully carrying out and effectuating this Agreement and the intent hereof, and evidencing this Agreement whether by filing with any public office or agency or otherwise.
4. Tenant agrees that during the term of the Lease, Tenant will not:
  - (a) pay any rent or additional rent in advance for more than one month to any landlord (including Borrower); or
  - (b) enter into any agreement, cancellation, surrender, amendment or modification of the Lease without Lender's prior written consent.
5. If Lender or any Purchaser succeeds to the interest of Borrower under the Lease and if Tenant then is not, and for so long as Tenant is not in default of the terms, provisions and conditions of the Lease and this Agreement and for so long as Tenant observes and performs the provisions of the Lease and this Agreement by Tenant to be observed and performed, Lender shall be bound to Tenant under all of the terms, covenants and conditions of the Lease, and Tenant shall, from and after Lender's succession to the interests of Borrower under the Lease, have the same remedies against Lender for breach of the Lease that Tenant would have had under the Lease against Borrower if Lender had not succeeded to the interests of Borrower; provided, however, that Lender shall not be:
  - (a) liable for any act or omission of any prior lessor (including, without limitation, Borrower); or
  - (b) subject to any offsets or defenses which Tenant might have against any prior lessor (including, without limitation, Borrower); or
  - (c) liable for any damages or other relief attributable to any latent or patent defects in construction with respect to the Premises or the Property; or
  - (d) liable for any consequential damages attributable to any act or omission of Lender or Purchaser or any other person; or
  - (e) liable for any damages or other relief attributable to any breach by Lender, Purchaser or any prior lessor (including, without limitation, Borrower) of any representation or warranty contained in the Lease); or
  - (f) bound by any rent or additional rent which Tenant might have paid in advance to any prior lessor (including, without limitation, Borrower) for any period beyond the month in which Lessor succeeds to the interest of Borrower under the Lease or by any security deposit, cleaning deposit or other prepaid charge which Tenant might have paid in advance to any prior lessor (including, without limitation, Borrower); or
  - (g) bound by any agreement or modification of the Lease made without the prior written consent of Lender; or
  - (h) bound by any covenant to perform (including, without limitation, any covenant to complete any construction) in connection with the premises covered by the Lease or to pay any sums to Tenant in connection therewith, and Tenant hereby releases Lender and any Purchaser from any such obligation and agrees that Tenant shall have no right to cancel the Lease, abate rent or assert any claim against Lender or Purchaser as a result of such failure to perform.
6. Borrower, Tenant and Lender agree that unless Lender shall otherwise expressly consent in writing, fee title to the Property and the leasehold estate created by the Lease shall not merge but shall remain separate and distinct, notwithstanding the union of said estates either in the Borrower or the Tenant or any third-party by purchase,

assignment or otherwise.

7. Tenant, from and after the date hereof, shall send a copy of any notice of default or similar statement under the Lease to Lender at the same time such notice or statement is sent to Landlord under the Lease. Such notices shall be delivered to Lender at the following address:

First Republic Bank  
111 Pine Street  
San Francisco, CA 94111  
Attn: Loan Servicing Dept.

8. Anything herein or in the Lease to the contrary notwithstanding, in the event that Lender or any Purchaser shall acquire title to the premises covered by the Lease, neither Lender nor Purchaser shall have any obligation, or incur any liability, beyond Lender's then interest, if any, in the Premises, and Tenant shall look exclusively to such interest of Lender or Purchaser, if any, in the Premises for the payment and discharge of any obligations imposed upon Lender and Purchaser hereunder or under the Lease, and Lender and Purchaser are hereby released or relieved of any other liability hereunder and under the Lease. Tenant shall look solely to the estate or interest owned by Lender or Purchaser in the Premises, and Tenant will not collect or attempt to collect any such judgment out of any other assets of Lender or Purchaser.
9. While Borrower may have made representations as to an intended use of the proceeds of the Loan, the parties to this Agreement hereby agree that any such use is not material to this Agreement and Lender has no obligation to Tenant or otherwise to assure or exert any control over the use of the proceeds of the Loan. Any application or use of such proceeds for purposes other than those provided for in any of the Loan Documents shall not defeat the subordination herein made, either in whole or in part.
10. In the event of default by Borrower in its performance of the terms, provisions and conditions of any Loan Document, Tenant agrees to recognize the assignment of the lease made by Borrower to Lender pursuant to the Assignment of Leases and shall pay to Lender, as assignee, the rents under the Lease which are due or which would become due to Borrower under the terms of the Lease at or after the time Lender gives Tenant notice that Borrower is in default under the terms of any of the Loan Documents. Such payments of rents to Lender by Tenant by reason of such assignment and of Borrower's default shall continue until the first to occur of the following:
- (a) No further rent is due or payable under the Lease;
  - (b) Lender gives Tenant notice that the default of Borrower under the Loan Documents has been cured and instructs Tenant that the rents shall thereafter be payable to Borrower; or
  - (c) The lien of the Deed of Trust has been foreclosed and Purchaser gives Tenant notice of such foreclosure. Purchaser shall thereupon succeed to the interests of Borrower under the Lease as provided in Paragraphs 3 and 4 hereof, after which time the rents and other benefits of Borrower under the Lease shall be payable to Purchaser as the owner thereof.
11. In complying with the provisions of Paragraph 10 hereof, Tenant shall be entitled to rely solely upon the notices given by Lender which are referred to in Paragraph 10 hereof and Borrower agrees to indemnify and hold Tenant harmless from and against any and all loss, claim, damage or liability arising out of Tenant's compliance with such notice. Tenant shall be entitled to full credit under the Lease for any rents paid to Lender in accordance with the provisions of Paragraph 10 hereof to the same extent as if such rents were paid directly to Borrower. Any dispute between Lender (or other Purchaser) and Borrower as to the existence or continuance of a default by Borrower under the terms of any of the Loan Documents, or with respect to the extent or nature of such default, or with respect to foreclosure of the Deed of Trust by Lender, shall be dealt with and adjusted solely between Lender (or other Purchaser) and Borrower, and Tenant shall not be made a party thereto (unless required by law).

12. Borrower acknowledges and agrees for itself and its heirs, successors and assigns that this Agreement does not constitute a waiver by Lender of any of Lender's rights under any of the Loan Documents or in any way release Borrower from its obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Loan Documents, and each of them.
13. This Agreement shall be the whole and only agreement with regard to the subordination of the Lease and the leasehold estate created thereby, together with all rights and privileges of Tenant thereunder, to the lien or charge of the Loan Documents. Lender's rights under the Loan Documents and the liens thereof, shall supersede and cancel any prior agreements as to such subordination, including, but not limited to, those provisions contained in the Lease which provide for the subordination of the Lease and the leasehold estate created thereby; to a deed or deeds of trust or to a mortgage or mortgages, but only insofar as such other agreements would affect the priority between the Lease and the Loan Documents. Tenant acknowledges that this Agreement satisfied any condition or requirement in the Lease related to Lender granting a nondisturbance agreement in favor of Tenant.
14. This Agreement may not be modified orally or in any other manner other than by an agreement in writing signed by the parties hereto or their respective successor in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their respective heirs, successors and assigns.
15. This Agreement shall be governed by and construed under the laws of the State of Oregon.
16. Tenant and Borrower each hereby certify that as of the date hereof there are no known defaults on the part of the other party under the Lease, that the Lease is a complete statement of the agreement of the parties thereto with respect to the leasing of the Premises, that the Lease is in full force and effect, and that all conditions to the effectiveness or continuing effectiveness thereof required to be satisfied as of the date hereof have been satisfied.
17. If any action or proceeding is brought by any party against any other party under this Agreement, the prevailing party shall be entitled to recover for the fees of its attorneys in such action or proceeding in such amount as the court may adjudge reasonable.
18. All notices and demands which may or are required to be given by any party to any other party hereunder shall be in writing and shall be deemed to have been fully given when deposited in the United States mail, certified or registered, postage prepaid, and addressed to such party at the address herein below set forth beside its signature or such other address as such party may designate by notice to the other parties in the future.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NOTICE: THIS SPECIFIC ASSIGNMENT, SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT RESULTS IN YOUR LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

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SIGNATURES AND ACKNOWLEDGEMENTS ON THE FOLLOWING PAGES)**

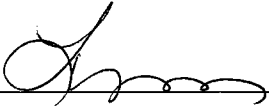
**"TENANT"**      Southern Oregon Goodwill Industries

By: Gayle Byrns  
Its: President/CEO  
TITLE

**"BORROWER"** Washburn Way Industrial Park LLC

✓  
By: Kelly Braun, Manager

**"LENDER"**      First Republic Bank

  
By: Lynnette Nerney  
Its: Director

Address:      111 Pine Street, San Francisco, CA 94111  
Attn: Loan Review Department

## ACKNOWLEDGMENT

State of California  
County of San Francisco )

On June 16, 2014 before me, Puneet Kaur, a Notary Public  
(insert name and title of the officer)

personally appeared Lynnette Nerney,  
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.

WITNESS my hand and official seal.

Signature Puneet Kaur (Seal)



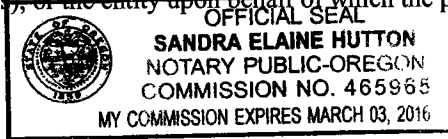
ACKNOWLEDGMENT

STATE OF Oregon )  
 ) SS.  
COUNTY OF Jackson )

On March 25, 2014 before me, Sandy Byrne of  
Artial Park, OR, personally known to me (or 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.

WITNESS my hand and official seal.

Sandra Hutton



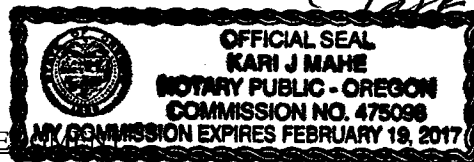
ACKNOWLEDGMENT

STATE OF Oregon )  
 ) SS.  
✓ COUNTY OF Multnomah )

On \_\_\_\_\_ before me, \_\_\_\_\_ of  
Kelly Bruhn \*, personally known to me (or 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. \* manager for Washburn Way Industrial

WITNESS my hand and official seal.

Kari J Mahe



ACKNOWLEDGE

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_ of  
\_\_\_\_\_, personally known to me (or 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.

WITNESS my hand and official seal.

\_\_\_\_\_

## "EXHIBIT A"

### 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 the 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 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.