

When recorded, mail to:

Zions Bank
Women's Financial Group
One South Main Street, 11th Floor
Salt Lake City, Utah 84111

10282981
11/26/2007 11:20:00 AM \$23.00
Book - 9540 Pg - 5217-5223
Gary W. Ott
Recorder, Salt Lake County, UT
BACKMAN TITLE SERVICES
BY: eCASH, DEPUTY - EF 7 P.

**ASSIGNMENT OF LEASES AND RENTS
AND SECURITY AGREEMENT**

Parcel # 16-06-401-009

This Assignment of Leases and Rents and Security Agreement (this "Assignment") is made and entered into this 15th day of November, 2007 by and between **Harryhausen, LLC** ("Assignor") **Zions First National Bank** ("Assignee").

WITNESSETH:

WHEREAS, Assignor, as Lessor or Landlord, has entered or may hereafter enter into written or oral lease agreements with third-party tenants, including, but not necessarily limited to, those certain lease agreements between Assignor and **I C SUSHI, LLC** (all such leases shall be collectively referred to hereafter as the "Leases"), wherein and whereby Assignor has agreed or may agree to lease and the said tenants have agreed or may agree to rent, upon the terms, conditions, and provisions therein set forth, certain space as described in the Leases, erected, situate, lying, and being on certain real property located in Salt Lake County, State of Utah, and more particularly described as follows (hereafter the "Property"):

PARCEL 1:

Commencing 3 ¼ rods South of the Northeast corner of Lot 7, Block 36, Plat "B", Salt Lake City Survey, and running thence South 3 ¼ rods; thence West 10 rods; thence North 3 ¼ rods; thence East 10 rods to the place of beginning.

PARCEL 2:

Beginning at the Southeast corner of Lot 7, Block 36, Plat "B", Salt Lake City Survey, and running thence West 10 rods; thence North 3 ½ rods; thence East 10 rods; thence South 3 ½ rods to the point of beginning.

WHEREAS, Assignee desires to acquire from Assignor all of the right, title, and interest of Assignor in the Property and the Leases on the Property to facilitate a loan or credit renewal, modification, or extension by Assignee to Assignor.

NOW, THEREFORE, in consideration of the Obligation (as defined herein) and such other and further consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby mutually agreed as follows:

1. **GRANT OF SECURITY INTEREST.** Assignor hereby grants Assignee a security interest in the Leases and any guaranties thereof and all of Assignor's contract rights, rights to payment, general intangibles, accounts, and chattel paper concerning or relating to the Property, and all proceeds arising from all of the foregoing.

2. **ASSIGNMENT.** Assignor hereby grants, conveys, and assigns to Assignee, as collateral, Assignor's entire interest, as Lessor or Landlord, in the Leases and any guaranties thereof, whether now existing or hereafter made or created covering all or any part of the Property, and further grants, transfers, and assigns to Assignee (i) all rents, income, issues, and profits arising from the Leases and any options, extensions, or renewals granted therein or thereof, together with all rents, income, issues, and profits for the use and occupation of all or any part of the Property, and (ii) all liens on property of Assignor's tenant or tenants of the Property, created by law, the Leases, or otherwise, in favor of Assignor.

3. WARRANTIES. For the purpose of inducing Assignee to make or renew loans to Assignor, and with full knowledge that Assignee will rely thereon, Assignor hereby represents and warrants to Assignee as follows:

- a. Assignor has duly performed all the conditions imposed upon it by the Leases.
- b. The Leases which have been entered into prior to the execution of this Assignment are now in full force and effect with rental payments paid current.
- c. The Leases are or will be assignable or any prerequisites to assignment have been obtained and that the Leases have not previously been assigned, except as indicated herein.
- d. Assignor is or will be the sole owner of the entire Lessor's or Landlord's leasehold interest in the Leases.
- e. The Leases are or will be valid and enforceable and have not been or will not have been altered, modified, or amended in any manner whatsoever, and shall not be altered, modified, or amended without the prior written consent of Assignee.
- f. Assignor is not in default under any of the terms, covenants, or conditions of the Leases and will not permit a default to occur.
- g. The Leases, together with any exhibits, addendums, or other documents relating and/or attached thereto, and the transactions which they represent, are free and clear of all defenses, setoffs, counterclaims, liens, and encumbrances of every kind and nature.

4. ASSIGNOR'S COVENANTS. Assignor agrees:

- a. To observe and perform all obligations imposed on Lessor or Landlord under the Leases and to indemnify Assignee from the consequences of any failure to do so.
- b. Not to interfere in any way with Assignee's collection of rents, income, issues, or profits accruing under the Leases of the Property if Assignee determines to collect such rents, income, issues, or profits under the terms of this Assignment.
- c. Not to collect any rents, income, issues, or profits accruing under the Leases or from the Property prior to the time when the same shall become due.
- d. Not to interfere in any way with Assignee's right to enforce or enforcement of any lien in favor of Assignor against property of any of Assignor's tenants, which liens are hereby assigned to Assignee.
- e. To promptly turn over to Assignee any such rents, income, issues, or profits collected by Assignor upon demand by Assignee to do so.
- f. To preserve the Property free and clear of all liens and encumbrances, except as otherwise agreed in writing by Assignee.
- g. Not to execute any other assignment of Lessor's or Landlord's interest in the Leases or any other assignment of rents accruing under the Leases or from the Property.
- h. Not to alter, extend, or modify the terms of the Leases or give any consent or exercise any renewal

or option required or permitted by the terms of the Leases without the prior written consent of Assignee.

- i. Not to terminate, cancel, or accept a surrender of the Leases, or transfer, convey, or permit a transfer or conveyance of the Property so as to cause a termination or changing of the obligations of any tenant under the Leases without the prior written consent of Assignee.
- j. Not to agree or consent to any assignment of or subletting under the Leases, whether or not in accordance with any terms of the Leases, without the prior written consent of Assignee.
- k. To deliver to Assignee copies of the Leases for any part of the Property made subsequent hereto, and to execute and deliver to Assignee such assignments to any future Leases and such other documents as Assignee shall from time to time reasonably require to effectuate the terms of this Assignment.
- l. To furnish Assignee from time to time now or hereafter, upon Assignee's request, with acknowledgments and/or estoppel certificates from any tenant under the Leases. All such acknowledgments or estoppel certificates shall be in form and manner acceptable to or prepared by Assignee in its sole discretion and shall, in each case, be duly executed by the appropriate tenant or tenants.

5. **OBLIGATION.** This Assignment is made and the rights, title, and interest of Assignor are hereby transferred to Assignee to facilitate a loan by Assignee to Assignor evidenced by that certain promissory note dated November 16, 2007 in the original principal amount of \$1,185,000.00, together with all renewals, extensions, and modifications thereof (the "Obligation").

6. **RE-ASSIGNMENT.** Assignee will re-assign the rights, title, and interest in the Leases and Property when the Obligation is fully satisfied and performed.

7. **ASSIGNEE'S RIGHTS.** Assignor covenants and agrees that Assignee may, at its option, at any time receive and collect the income, rents, issues, and profits, including any which may be past due and unpaid, being assigned hereby to Assignee. Assignor hereby authorizes Assignee to enter upon the Property, either by a receiver or by Assignee's agents or employees, for the purpose of collection of such rents, income, issues, and profits and for the management, protection, preservation, operation, and maintenance of the Property. Assignor authorizes and directs the lessees and tenants of the Property to make all payments under the Leases directly to Assignee, upon Assignee's request therefor, and Assignor hereby releases said lessees and tenants from any liability to Assignor by reason of payments being made to Assignee. Assignor authorizes Assignee to perform all acts deemed by Assignee to be necessary for the management, protection, preservation, operation, and maintenance of the Property in the same manner and to the same extent that Assignor could so act. Assignor also authorizes Assignee upon such entry, at the option of Assignee, to take over and assume the management, operation, protection, preservation, and maintenance of the Property and to perform all acts necessary and proper for such purposes and to expend such sums out of the income and rents of the Property as shall be required in that connection, including, without limitation, expenses incurred in maintaining, protecting, and preserving the Property and expenses incurred in acquiring reasonably necessary substitutions or additions to the improvements, furnishings, or equipment used on the Property, in the same manner and to the same extent as Assignor could do, including the right to effect any new Lease, to cancel or surrender any existing Lease, to alter or amend the terms of any existing Lease, to renew any existing Lease, to make concessions to tenants, or to take any other action to enforce the terms of the Leases as provided herein or by law. Assignor releases all claims against Assignee arising out of such management, operation, and maintenance, except the liability of Assignee to account as hereinafter set forth and except any liability of Assignee for damages occasioned by its sole negligence in the exercise of any of the rights granted it herein.

8. **COLLECTION OF PAYMENTS.** It is understood and agreed that so long as there shall exist no default under the Obligation, there is reserved to Assignor a license to collect rents due under the Leases as they become due.

Upon the occurrence of an event of default of the Obligation, such license granted to Assignor shall be immediately revoked upon the demand of Assignee and Assignee is hereby empowered to demand that all rents, income, issues, and profits due under the Leases shall be paid directly to Assignee by the tenants. This Assignment is intended to be and is an absolute present assignment from Assignor to Assignee and not merely the passing of a security interest.

9. PERFORMANCE OF ASSIGNOR'S OBLIGATIONS. Upon its entry upon the Property, Assignee, after payment of all proper charges and expenses, including reasonable compensation to such managing agent as it may select and employ, and reasonable attorney's fees, and after the accumulation of a reserve to pay taxes, assessments, fire and liability insurance, and other amounts necessary to preserve the Property, shall credit the net amount of income received by it from the Property by virtue of this Assignment to any amounts then due to it by Assignor under the terms of the Obligation, but the manner of the application of such net income and the determination of the items to be credited shall be in the sole discretion of Assignee. Any net amount of income not credited to debts due Assignee pursuant to the preceding sentence shall be paid to Assignor. Assignee shall not be accountable to Assignor for more monies than Assignee actually receives from the Property, nor shall it be liable for failure to collect rents, income, issues, and profits. Assignee shall make reasonable effort to collect rents, income, issues, and profits, reserving, however, the discretion to determine the method of collection and the extent to which collection of delinquent rents, income, issues, and profits shall be enforced.

10. ASSIGNEE NOT OBLIGATED. Assignee shall be under no obligation to exercise any of the rights, remedies, or powers hereby granted to it and the failure or delay in exercising any of said rights, remedies, or powers shall not constitute a waiver thereof, nor of any default by Assignor. Assignee may take possession of the Property and hold, lease, and manage the same on such terms and for such a period of time as Assignee deems proper and, with or without taking possession of the Property, make demand and sue for all rents, income, issues, and profits of the Property, with power to make, from time to time, such alterations, repairs, and renovations as may seem proper to Assignee, and to apply such rents, income, issues, and profits to payment of all expenses of operating, managing, and maintaining the Property, and the principal, interest, and other indebtedness secured hereby, in such priority as Assignee, in its sole discretion may determine. However, the exercise or non-exercise by Assignee of the options granted in this paragraph shall not be considered a waiver of any default by Assignor under the Obligation. Assignee is further authorized to direct the tenant under the Leases or any tenant of any Lease of the Property hereafter entered into by Assignor to pay to Assignee all rents, income, issues, and profits accruing under said Leases and to continue to do so until otherwise notified by Assignee. Assignor shall cause the Property to be prudently operated, managed, and maintained (including enforcement of the terms of the Leases), and shall collect all rents, income, issues, and profits until Assignee gives written notice to Assignor of its intention to assume the operation, management, maintenance, and collection of rents of the Property. Such notice shall be effective ten (10) days after the date it is deposited by Assignee in the United States mail addressed to Assignor at the address set forth below or at such other address as Assignor may designate from time to time.

11. DEFAULT. Assignor will be in default hereunder, and Assignee may pursue any remedy or remedies provided hereby if any of the following events occur:

- a. There is any material default of any term, condition, or covenant of the Leases by Assignor.
- b. Any statement, representation, or warranty made herein or otherwise by Assignor to Assignee is untrue in any material respect.
- c. Assignor becomes insolvent or unable to pay debts as they mature, or Assignor makes any assignment for the benefit of creditors, or any proceeding is instituted against or by Assignor alleging insolvency or bankruptcy.
- d. There is any default of the Obligation or of any term, covenant, or condition of any document therein referenced or in any instrument executed in connection therewith.
- e. Assignor fails to perform any condition, duty, covenant, or warranty of this Assignment.

12. **REMEDIES.** Upon or at any time after default hereunder, Assignee, without in any way waiving such default, may, at its option, upon such notice as is described in paragraph 9 of this Assignment and without regard to the adequacy of the security for the Obligation, either in person or by agent, with or without bringing an action or proceeding, or by receiver appointed by a court, take any or all of the following actions:

- a. Declare all sums due and owing under the Obligation fully accelerated and fully due and payable.
- b. Pursue any other remedy allowed it by the terms of this Assignment or any loan document or instrument incidental to the Obligation or any applicable law.
- c. (i) Pay any payments or perform or discharge any obligations in such manner and to such extent as it may deem necessary to protect the security hereof and may commence, appear in, and defend any action or proceeding purporting to affect the rights or powers of Assignor, and (ii) pay, purchase, contest, or compromise any encumbrance, charge, or lien, within its judgment, which appears to be prior or superior hereto, and in exercising any such powers, incur any liability and expend any amounts which, in its absolute discretion, it may deem necessary, including any costs of evidence of title and attorney's fees. Assignor agrees to repay without demand all sums paid pursuant hereto within ten days from the date of payment and any such repayment shall be secured hereby.

No remedy of Assignee shall be exclusive of any other remedy allowed herein or by law provided but each shall be cumulative and in addition to every other remedy. A waiver of default shall not be a waiver of any other or a subsequent default.

13. **ASSIGNEE NOT RESPONSIBLE FOR TERMS OF LEASES.** It is further understood that this Assignment shall not operate to place responsibility for the payment of rent, control, care, management, or repair of the Property described in the Leases upon Assignee, nor for the carrying out of any of the terms and conditions of the Leases; nor shall it operate to make Assignee responsible or liable for any waste committed on the Property by Assignor or any other party, or for any dangerous or defective condition of the Property, or for any negligence in the use, occupancy, management, upkeep, repair, or control of the Property resulting in loss or injury or death to any party whosoever, including, but not limited to, Assignor or its licensees, employees, or agents.

14. **ASSIGNOR TO PERFORM TERMS OF LEASES.** Assignor covenants with Assignee: (i) to observe and perform all the obligations imposed upon Assignor under the Leases and not to do or permit to be done anything to impair the security hereof; (ii) not to execute any other assignment of Assignor's interest in the Leases; (iii) not to mortgage, encumber, or hypothecate Assignor's interest in the Leases to any person other than Assignee hereunder; (iv) not to alter, modify, or change the terms of the Leases or give up any right or option Assignor may have under or pursuant to the Leases or any interest therein so as to affect directly or indirectly, proximately or remotely, the rights of or a termination or diminution in the value of Assignor's interest thereunder.

15. **LIABILITY OF ASSIGNEE.** Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to exercise its rights under and pursuant to this Assignment, and nothing contained herein shall require Assignee to exercise its rights pursuant hereto, which said rights shall be exercised at the sole option and discretion of Assignee after the default by Assignor under the Obligation or this Assignment. Assignee shall not be obligated to perform or discharge, nor does Assignee hereby undertake to perform or discharge, any obligation, duty, or liability under the Leases or under or by reason of this Assignment.

16. **INDEMNIFICATION.** Assignor shall, and does hereby agree to, indemnify Assignee for and to hold Assignee harmless from any and all liabilities, losses, or damages which may or might be incurred under the Leases or under or by reason of this Assignment or in connection with the Property and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in the Leases; provided, however, this indemnity shall not apply to any liability caused solely by the negligence of Assignee. Should Assignee incur any such liability under the Leases or under or by reason of this Assignment or in defense of any such claims or demands, the amount thereof,

including costs, expenses and reasonable attorney's fees incurred by Assignee, shall be secured hereby and Assignor shall reimburse Assignee therefor immediately upon demand, and upon failure to do so, Assignee may, at its option, declare all sums secured hereby immediately due and payable.

17. **OTHER SECURITY.** Assignee may take or release other security for the payment of the Obligation, may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the satisfaction of the Obligation without prejudice to any of its rights under this Assignment.

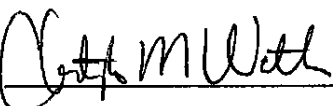
18. **POWER OF ATTORNEY.** Assignor appoints Assignee its attorney in fact to demand, receive, and enforce payment of rents, income, issues, and profits from the Property and to give receipts, releases, and satisfactions and to sue for all sums payable either in the name of Assignor or in the name of Assignee, with the same force and effect as Assignor could have done if this Assignment had not been made.

19. **MISCELLANEOUS.** Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the obligations now existing or hereafter arising between Assignor and Assignee secured hereby, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under and pursuant to the terms of such agreements. The right of Assignee to full satisfaction of the Obligation and to enforce any other security therefor held by it may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Any provisions hereof found to be invalid shall not invalidate the remainder. Either party required to enforce any term or condition of this Assignment, with or without suit, shall be entitled to its costs and expenses, including reasonable attorney's fees. Assignor further agrees that any such costs and expenses incurred by Assignee shall constitute an obligation secured hereby and shall bear interest at the highest rate provided for in the Obligation until all sums and amounts are fully satisfied. Assignee is authorized to date this instrument and fill in any blanks. If Assignor consists of one or more parties, each of the parties comprising Assignor agree that they are jointly and severally liable for each and every covenant, condition, and term in this Assignment.

20. **BINDING EFFECT.** This Assignment, together with the covenants and warranties herein contained, shall inure to the benefit of Assignee, its successors, representatives, and assigns and shall be binding upon Assignor, its successors, representatives, and assigns.


IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ASSIGNOR: HARRYHAUSEN, LLC

By: 
Its: _____

By: _____
Its: _____

ASSIGNEE: ZIONS FIRST NATIONAL BANK

By: 
Ali Wilkinson, Vice President

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF SALT LAKE)



On the 15 day of November, 2007, personally appeared before me Christopher M. Watkins, who being duly sworn, did say that he/she is the Manager, of the limited liability company that executed the above and foregoing instrument, and that said instrument was signed in behalf of said limited liability company by authority, and said Christopher M. Watkins acknowledged to me that said limited liability company executed the same.

Notary Public Kasey McSpadden
My Commission Expires: 4/19/2010

Residing at: Salt Lake City, UT.

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF SALT LAKE)

On the _____ day of November, 2007, personally appeared before me _____, who being duly sworn, did say that he/she is the _____, of the limited liability company that executed the above and foregoing instrument, and that said instrument was signed in behalf of said limited liability company by authority, and said _____ acknowledged to me that said limited liability company executed the same.

Notary Public
My Commission Expires:

Residing at:

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF SALT LAKE)



On the 15 day of November, 2007, personally appeared before me Ali Wilkinson, who being duly sworn, did say that he/she is the Loan Officer of ZIONS FIRST NATIONAL BANK, the corporation that executed the above and foregoing instrument, and that said instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said Ali Wilkinson acknowledged to me that said corporation executed the same.

Notary Public Kasey McSpadden
My Commission Expires: 4/19/2010

Residing at: Salt Lake City, UT