

2009 SEP -4 AM 9:03

MICHAEL A. BROWN
RECORDER

THIS DOCUMENT PREPARED BY 2009 061121
AND AFTER RECORDING RETURN TO:

Courtney E. Mayster
Schain, Burney, Ross & Citron, Ltd.
222 North LaSalle Street
Suite 1910
Chicago, Illinois 60601

**MODIFICATION OF MORTGAGE
AND OTHER SECURITY DOCUMENTS**

THIS MODIFICATION OF MORTGAGE AND OTHER SECURITY DOCUMENTS ("Modification") is made and entered into as of the 24th day of April, 2009, by SUMMERTREE DEVELOPMENT, LLC, an Indiana limited liability company ("Mortgagor"), having a mailing address of 9616 Indianapolis Boulevard, Highland, Indiana, 46322, to and for the benefit of MB FINANCIAL BANK, N.A. ("Lender"), with a mailing address of 6111 North River Road, Rosemont, Illinois 60018, Attention: Vincent G. Laughlin.

RECITALS:
This Document is the property of
the Lake County Recorder!

WHEREAS, Lender has heretofore made a mortgage loan (the "Loan") to Mortgagor in the original principal amount of Twelve Million Two Hundred Ninety Five Thousand and 00/100 Dollars (\$12,295,000.00) as evidenced by a Loan Agreement dated as of April 24, 2006 by and between Lender and Mortgagor (the "Loan Agreement"); and

WHEREAS, the Loan is evidenced by (i) a Land and Development Mortgage Note dated as of April 24, 2006 in the original principal amount Five Million One Hundred Forty Five Thousand and 00/100 Dollars (\$5,145,000.00) (the "Land and Development Note"); (ii) a Model Home Mortgage Note dated as of April 24, 2006 in the original principal amount of One Million Six Hundred Fifty Thousand and 00/100 Dollars (\$1,650,000.00) (the "Model Note"); and (iii) a Presold and Spec Home Mortgage Note dated as of April 24, 2006 in the original principal amount of Five Million Five Hundred Thousand and 00/100 Dollars (\$5,500,000.00) (the "Construction Note;" together with the Land and Development Note and the Model Note, collectively referred to as the "Notes"), all as more specifically set forth in said Notes; and

WHEREAS, the Notes are secured by, among other things, a Mortgage, Assignment of Leases and Rents, and Security Agreement dated as of the 24th day of April, 2006, by Mortgagor in favor of Lender, recorded in the Office of the Recorder of Deeds of Lake County, Indiana, on April 27, 2006, as Document No. 2006035169 (the "Mortgage"), and a Guaranty of Payment dated as of the 24th day of April, 2006 (the "Guaranty of Payment") by David B. Van Dyke, individually and Sharon Van Dyke, individually (collectively, "Guarantors") in favor of Lender; and any and all other instruments and documents executed by or on behalf of Mortgagor and delivered to Lender in

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connection with the Loan, which are hereinafter collectively referred to as the "Other Security Documents"; and

WHEREAS, Mortgagor desires that the Maturity Date (as defined therein) of the Notes be extended to July 23, 2009; and

WHEREAS, the parties desire to modify and amend the Loan as provided herein and as a condition to such modification, Lender is requiring: (i) this Modification; (ii) a Consent and Reaffirmation of Guarantors and Modification of Guaranty of Payment executed by Guarantors ("Guaranty Modification") whereby the Guaranty of Payment is modified to refer to the Notes as modified by the Note Amendments (as hereinafter defined); (iii) an Amendment to Land and Development Mortgage Note dated of even date herewith executed by Borrower whereby the Land and Development Note is modified as provided above; (iv) an Amendment to Model Home Mortgage Note dated of even date herewith executed by Borrower whereby the Model Note is modified as provided above; and (v) an Amendment to Presold and Spec Home Mortgage Note dated of even date herewith executed by Borrower whereby the Construction Note is modified as provided above (the Amendment to Land and Development Mortgage Note, the Amendment to Model Home Mortgage Note and the Amendment to Presold and Spec Home Mortgage Note are collectively referred to herein as the "Note Amendments").

NOW, THEREFORE, for and in consideration of Ten and 00/100 Dollars (\$10.00) in hand paid, the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. **Incorporation of Recitals.** The aforesaid recitals are hereby incorporated into this Modification by reference as if fully set forth in this Paragraph 1. Wherever the terms and conditions of this Modification conflict with the terms and conditions of the Mortgage, the terms and conditions of this Modification shall control. In all other respects the parties do hereby ratify and declare to be in full force and effect the terms and conditions of the Mortgage and the Other Security Documents.

2. **Modifications of Mortgage and Other Security Documents.** The Mortgage and Other Security Documents are hereby modified as follows:

- a. by deleting the amount "One Million Six Hundred Fifty Thousand and 00/100 Dollars (\$1,650,000.00)" where it appears and substituting therefor the amount "Nine Hundred Fifteen Thousand Four Hundred Ninety Four and 84/100 Dollars (\$915,494.84)"
- b. by deleting the date "April 24, 2009" where it appears and substituting therefor the date "July 23, 2009"

3. **Modifications of Loan Agreement.** The Loan Agreement is hereby modified as follows:

- a. by deleting the amount “One Million Six Hundred Fifty Thousand and 00/100 Dollars (\$1,650,000.00)” where it appears and substituting therefor the amount “Nine Hundred Fifteen Thousand Four Hundred Ninety Four and 84/100 Dollars (\$915,494.84)”
- b. to provide that the “Date Date” shall hereinafter mean “July 23, 2009”

4. **References to Loan Documents and Guaranty of Payment.** Any and all references in the Notes, the Mortgage and the Other Security Documents to the “Loan Documents” shall from and after the date hereof be deemed to refer to such Loan Documents as modified by this Modification; and any and all references in the Notes, the Mortgage and the Other Security Documents to the “Guaranty of Payment” shall from and after the date hereof be deemed to refer to the Guaranty of Payment as modified by the Guaranty Modification.

5. **Reaffirmation of Representations and Warranties.** Mortgagor hereby reaffirms as true and correct in all respects, as of the date hereof, any and all representations and warranties contained in the Mortgage and the Other Security Documents.

6. **Reaffirmation of Covenants.** Mortgagor does hereby reaffirm and agree to perform all of the terms, covenants, conditions and obligations applicable to such parties as set forth in the Mortgage and the Other Security Documents as herein modified.

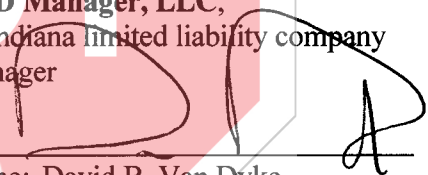
7. **Laws of Illinois.** This Modification shall be covered and construed under the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties have caused this Modification to be executed pursuant to authority duly granted as of the date and year first written above.

SUMMERTREE DEVELOPMENT, LLC,
an Indiana limited liability company

By: **DVD Manager, LLC,**
an Indiana limited liability company
Its: Manager



By: 
Name: David B. Van Dyke
Title: President

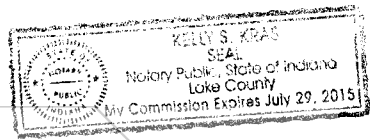
STATE OF INDIANA)
) SS.
COUNTY OF LAKE)

I, the undersigned, a Notary Public in and for said County and State, **DO HEREBY CERTIFY** that David B. Van Dyke, the President of DVD Manager, LLC, an Indiana limited liability company, which is the Manager of Summertree Development, LLC, an Indiana limited liability company, whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument, on behalf of said company and as his free and voluntary act, and as the duly authorized and free and voluntary act of the company, for the uses and purposes therein set forth.

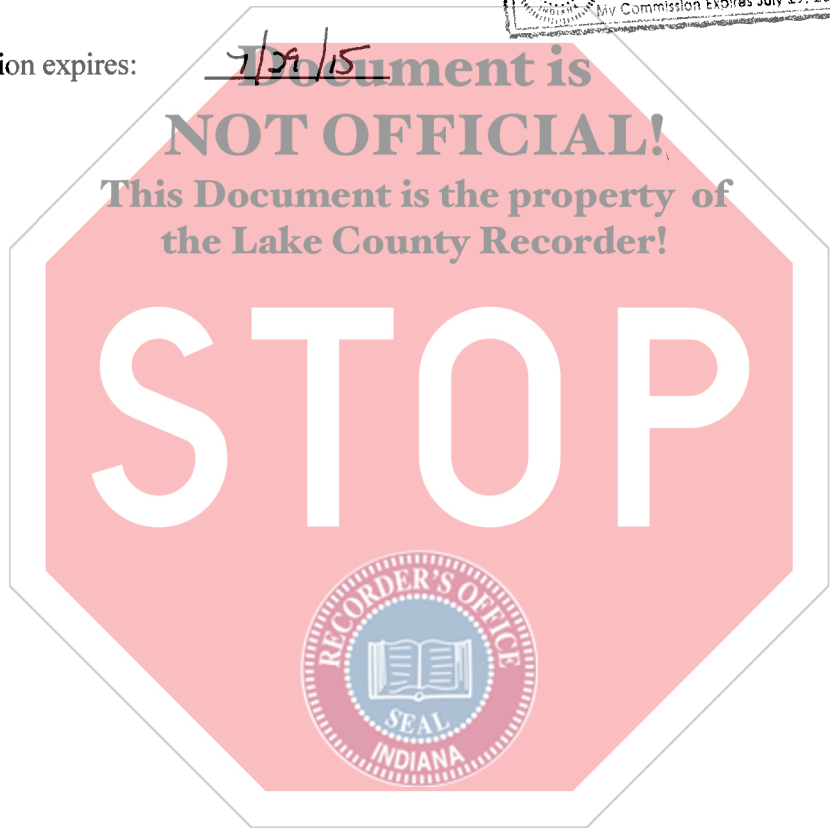
GIVEN under my hand and official seal, this 27 day of May, 2009.



Notary Public



My Commission expires: 7/29/15



CONSENT OF LENDER

The undersigned Mortgagee hereby consents to and hereby approves the foregoing Modification of Mortgage and Other Security Documents.

Dated as of April 24, 2009.

MB FINANCIAL BANK, N.A.

By: William Ber
Name: William Ber
Title: Vice-president

STATE OF ILLINOIS)

) ss.

COUNTY OF COOK)

Document is NOT OFFICIAL!

I, Cassandra M. Krisik, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that William Ber of **MB FINANCIAL BANK, N.A.**, personally known to me to be the same person whose name is subscribed to the foregoing **CONSENT OF LENDER**, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument, on behalf of said Bank and as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 27th day of July, 2009.

Cassandra M. Krisik
Notary Public

"OFFICIAL SEAL"
CASSANDRA M. KRISIK
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires 12/07/2011



EXHIBIT "A"
LEGAL DESCRIPTION

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 2; THENCE SOUTH 89 DEGREES 58 MINUTES 11 SECONDS WEST ALONG THE NORTH LINE OF SAID SECTION 2, 2390.60 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 07 MINUTES 53 SECONDS EAST PARALLEL WITH THE NORTH SOUTH CENTER LINE OF SAID SECTION, 522.31 FEET; THENCE NORTH 89 DEGREES 58 MINUTES 11 SECONDS EAST PARALLEL WITH THE NORTH LINE OF SAID SECTION 2,394.08 FEET TO THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 00 DEGREES 04 MINUTES 44 SECONDS EAST ALONG THE SAID EAST LINE, 154.94 FEET TO THE NORTH LINE OF THE SOUTH 5 ACRES OF THE WEST ONE HALF OF THE EAST ONE HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 2; THENCE NORTH 89 DEGREES 49 MINUTES 38 SECONDS EAST ALONG THE SAID NORTH LINE, 332.36 FEET TO THE WEST LINE OF HUNTER POINT, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 78, PAGE 14, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 03 MINUTES 09 SECONDS EAST ALONG THE SAID WEST LINE, 655.61 TO THE SOUTHWEST CORNER OF SAID HUNTER POINT; THENCE NORTH 89 DEGREES 49 MINUTES 38 SECONDS EAST, 332.06 FEET TO THE SOUTHEAST CORNER OF SAID HUNTER POINT, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 00 DEGREES 01 MINUTES 33 SECONDS EAST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER, 1324.26 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, THENCE NORTH 89 DEGREES 52 MINUTES 12 SECONDS EAST ALONG THE NORTH LINE OF SAID WEST HALF, 331.45 FEET TO THE NORTHEAST CORNER OF SAID WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH 00 DEGREES 00 MINUTES 02 SECONDS WEST ALONG THE EAST LINE OF SAID WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, 281.14 FEET; THENCE SOUTH 89 DEGREES 58 MINUTES 11 SECONDS WEST PARALLEL WITH THE NORTH LINE OF SAID SECTION 2, 396.18 FEET; THENCE SOUTH 10 DEGREES 00 MINUTES 00 SECONDS WEST, 165.17 FEET; THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 98.20 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 110.00 FEET; THENCE NORTH 34 DEGREES 00 MINUTES 00 SECONDS WEST, 160.00 FEET THENCE NORTH 00 DEGREES 00 MINUTES 02 SECONDS EAST PARALLEL WITH THE EAST LINE OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 2; 486.67 FEET; THENCE NORTH 05 DEGREES 41 MINUTES 02 SECONDS WEST, 326.85 FEET; THENCE NORTH 18 DEGREES 02 MINUTES 40 SECONDS WEST 152.57 FEET; THENCE NORTH 18 DEGREES 35 MINUTES 43 SECONDS WEST 384.29 FEET; THENCE NORTH 30

DEGREES 29 MINUTES 11 SECONDS WEST, 327.68 FEET; THENCE NORTH 64 DEGREES 53 MINUTES 50 SECONDS WEST, 133.47 FEET; THENCE SOUTH 74 DEGREES 25 MINUTES 16 SECONDS WEST, 160.17 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 18 SECONDS WEST, 386.73 FEET; THENCE SOUTH 89 DEGREES 53 MINUTES 42 SECONDS WEST, 61.46 FEET; THENCE NORTH 00 DEGREES 07 MINUTES 53 SECONDS WEST PARALLEL WITH THE NORTH SOUTH CENTERLINE OF SAID SECTION 2, 318.03 FEET TO A POINT 713.78 FEET SOUTH OF THE NORTH LINE OF SAID SECTION 2 AS MEASURED WITH THE NORTH SOUTH CENTERLINE OF SAID SECTION 2; THENCE SOUTH 89 DEGREES 44 MINUTES 17 SECONDS WEST 371.85 FEET; SOUTH 00 DEGREES 22 MINUTES 53 SECONDS EAST, 236.25 FEET; THENCE SOUTH 89 DEGREES 50 MINUTES 44 SECONDS WEST, 340.31 FEET; THENCE NORTH 28 DEGREES 56 MINUTES 52 SECONDS WEST, 248.43 FEET; THENCE NORTH 61 DEGREES 02 MINUTES 22 SECONDS WEST, 350.92 FEET; THENCE SOUTH 49 DEGREES 15 MINUTES 45 SECONDS WEST, 440.10 FEET; THENCE SOUTH 42 DEGREES 34 MINUTES 42 SECONDS WEST, 191.65 FEET; THENCE SOUTH 56 DEGREES 00 MINUTES 00 SECONDS WEST 341.46 FEET; THENCE NORTH 82 DEGREES 12 MINUTES 41 SECONDS WEST, 57.10 FEET; THENCE NORTH 07 DEGREES 47 MINUTES 19 SECONDS EAST, 361.34 FEET; THENCE NORTH 58 DEGREES 58 MINUTES 48 SECONDS WEST 95.92 FEET; TO THE CENTERLINE OF DEEP RIVER; THENCE NORTH 08 DEGREES 52 MINUTES 17 SECONDS EAST ALONG THE CENTERLINE OF SAID DEEP RIVER, 204.61 FEET; THENCE NORTH 10 DEGREES 33 MINUTES 12 SECONDS EAST CONTINUING ALONG SAID CENTERLINE 576.08 FEET TO THE NORTH LINE OF SAID SECTION 2, THENCE NORTH 89 DEGREES 58 MINUTES 11 SECONDS EAST ALONG THE NORTH LINE OF SAID SECTION 2, 1845.21 FEET TO THE POINT OF BEGINNING.

