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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD  
2009 SEP 16 AM 8:56  
MICHAEL A. BROWN  
RECORDER

2009 063123

After recording,  
please return to:

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

Attention: Courtney E. Mayster

**MODIFICATION OF MORTGAGE  
AND OTHER SECURITY DOCUMENTS**

**THIS MODIFICATION OF MORTGAGE AND OTHER SECURITY DOCUMENTS** ("**Modification**") is made and entered into as of June 28, 2009, by **COVINGTON DEVELOPMENT, LLC**, an Indiana limited liability company ("**Borrower**") with a mailing address at 8051 Wicker Avenue, Suite A, St. John, Indiana, 46373, to the order of **MB FINANCIAL BANK, N.A.** (together with its successors and assigns, including each and every holder from time to time of the Notes hereinafter described, "**Lender**") with a mailing address at 6111 North River Road, Rosemont, Illinois, 60018, Attention: Vincent G. Laughlin.

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

**WHEREAS**, Borrower and Lender have entered into a Loan Agreement dated June 28, 2006 ("**Loan Agreement**") whereby Lender has heretofore made a loan (the "**Loan**") to Borrower in the total principal amount of Six Million Eight Hundred Ten Thousand and 00/100 Dollars (\$6,810,000.00); and

**WHEREAS**, the Loan is evidenced by: (i) an Acquisition and Development Loan Note in the amount of Three Million Three Hundred Thousand and 00/100 Dollars (\$3,300,000.00) of even date herewith (the "**A&D Note**"); (ii) a Model Home Loan Note in the amount of Six Hundred Sixty Thousand and 00/100 Dollars (\$660,000.00) of even date herewith (the "**Model Home Note**"); and (iii) a Presold & Spec Home Loan Note in the amount of Two Million Eight Hundred Fifty Thousand and 00/100 Dollars (\$2,850,000.00) of even date herewith (the "**Construction Note**"). The A&D Note, the Model Home Note and the Construction Note are collectively referred to herein as the "**Notes**"; and

**WHEREAS**, as of the date hereof, the outstanding principal balance of the A&D Note is Two Million Three Hundred Forty Eight Thousand Eight Hundred Fifty Seven and 93/100 Dollars (\$2,348,857.93); and

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WHEREAS, the Notes are secured by, among other things, a Mortgage, Assignment of Leases and Rents, and Security Agreement dated as of the June 28, 2006, by Borrower in favor of Lender, recorded in the Office of the Recorder of Deeds of Lake County, Indiana, on July 7, 2006, as Document No. 2006 058766 (the "**Mortgage**"), and a Guaranty of Payment dated as of June 28, 2006, by OD Limited Partnership, an Indiana limited partnership, and OD Enterprises, Inc., an Indiana corporation, jointly and severally (collectively, "**Guarantor**") in favor of Lender, as reaffirmed from time to time (the "**Guaranty**"); and any and all other instruments and documents executed by or on behalf of Borrower and delivered to Lender in connection with the Loan, which are hereinafter collectively referred to as the "**Other Security Documents**"; and

WHEREAS, Borrower desires that the Loan be modified to extend the Maturity Date (as defined therein) of the A&D Note and the Construction Note among other things; and

WHEREAS, the collateral for the Mortgage is the real property legally described in Exhibit "A", which is attached hereto and made a part hereof; 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) an Amendment to Acquisition and Development Loan Note ("**A&D Note Amendment**") whereby the Maturity Date of the A&D Note is extended as provided above among other things; (iii) an Amendment to Presold & Spec Home Loan Note ("**Construction Note Amendment**"; together with the A&D Note Amendment, the "**Note Amendments**") whereby the Maturity Date of the Construction Note is extended as provided above among other things; and (iv) a Consent and Reaffirmation of Guarantors executed by Guarantor ("**Guaranty Modification**") whereby the Guaranty is modified to secure the Notes as modified by 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. **Modification of Mortgage and Other Security Documents.** The Mortgage is hereby modified as follows:

- a. to provide that final payment for all sums due under the A&D Note and the Construction Note shall be due and payable on **September 5, 2009**.
- b. by deleting the paragraph commencing with "TO SECURE" on the first (1<sup>st</sup>) page thereof in its entirety and substituting therefore the following:

**"TO SECURE** to Lender the repayment of the indebtedness evidenced by the Notes, with interest thereon; the repayment of the indebtedness evidenced by that certain Mortgage Note dated April 6, 2006 made by **OLTHOF HOMES – LAKE HILLS, LLC**, an Indiana limited liability company in the original principal amount of **Three Million Three Hundred Eighty Five Thousand and 00/100 Dollars (\$3,385,000.00)**, as may be modified from time to time, with interest thereon; the repayment of the indebtedness evidenced by that certain Presold & Spec Home Loan Note dated June 20, 2007 made by **ROCKWELL DEVELOPMENT, LLC**, an Indiana limited liability company in the original principal amount of **Three Million Six Hundred Sixty Five Thousand and 00/100 Dollars (\$3,665,000.00)**, as may be modified from time to time, with interest thereon; the repayment of the indebtedness evidenced by that certain Model Home Loan Note dated June 20, 2007 made by **ROCKWELL DEVELOPMENT, LLC**, an Indiana limited liability company in the original principal amount of **Seven Hundred Seventy Two Thousand Four Hundred and 00/100 Dollars (\$772,400.00)**, as may be modified from time to time, with interest thereon; the repayment of the indebtedness evidenced by that certain Mortgage Note dated January 4, 2006 made by **THE PRESERVE DEVELOPMENT, LLC**, an Indiana limited liability company in the original principal amount of **One Million Two Hundred Twenty Two Thousand Six Hundred Fifty and 00/100 Dollars (\$1,222,650.00)**, as may be modified from time to time, with interest thereon; the payment of all charges provided herein and all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements contained herein and in the Notes, all future advances and all other indebtedness of Mortgagor to Lender whether now or hereafter existing (collectively, the "**Secured Indebtedness**" or "**Indebtedness**") and also in consideration of Ten Dollars (\$10.00), the receipt and sufficiency of which is acknowledged, Mortgagor does hereby convey, grant, mortgage and warrant to Lender the real estate ("**Real Estate**") located in the County of Lake, State of Indiana, described on Exhibit "A" attached hereto, subject only to covenants, conditions, easements and restrictions set forth on Exhibit "B", if any, ("**Permitted Encumbrances**")."

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

- a. to provide that the "**Due Date**" shall hereinafter refer to "**September 5, 2009**"
- b. by adding the following as additional "Defaults" to Section 9.1 thereof:

“k. Any “Default” or “Event of Default” under any documents evidencing or securing: (1) that certain loan dated April 6, 2006 made by Lender to **OLTHOF HOMES – LAKE HILLS, LLC**, an Indiana limited liability company in the original principal amount of **Three Million Three Hundred Eighty Five Thousand and 00/100 Dollars (\$3,385,000.00)**, as may be modified from time to time; (2) that certain loan dated June 20, 2007 made by Lender to **ROCKWELL DEVELOPMENT, LLC**, an Indiana limited liability company in the original principal amount of **Three Million Six Hundred Sixty Five Thousand and 00/100 Dollars (\$3,665,000.00)**, as may be modified from time to time; (3) that certain loan dated June 20, 2007 made by Lender to **ROCKWELL DEVELOPMENT, LLC**, an Indiana limited liability company in the original principal amount of **Seven Hundred Seventy Two Thousand Four Hundred and 00/100 Dollars (\$772,400.00)**, as may be modified from time to time; or (4) that certain loan dated January 4, 2006 made by Lender to **THE PRESERVE DEVELOPMENT, LLC**, an Indiana limited liability company in the original principal amount of **One Million Two Hundred Twenty Two Thousand Six Hundred Fifty and 00/100 Dollars (\$1,222,650.00)**, as may be modified from time to time.”

4. References to Notes. From and after the date hereof (i) the Mortgage, the Assignment and the Other Security Documents shall be deemed to secure the Notes as modified by the Note Amendments; and (ii) any and all references in the Mortgage or the Other Security Documents to the “Notes” shall be deemed to refer to the Notes as modified by the Note Amendments.

5. References to Loan Documents and Guaranty. 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” shall from and after the date hereof be deemed to refer to the Guaranty as modified by the Guaranty Modification.

6. 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.

7. 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.

8. Governing Law. The rights and duties of the parties hereunder shall be construed, enforced and governed according to the laws of the State of Illinois, without reference to the conflict of laws principles of said State, all except insofar as the same relates to matters of

foreclosure and title to which the laws of the State in which the Property is situated shall govern. The parties hereby consent and irrevocably waive all objections to the jurisdiction and venue and convenience of forum of any court of general and competent jurisdiction located within the County of Cook, State of Illinois with respect to any legal proceeding arising out of or connected with this Agreement and agree that the mailing to their address(es) by registered mail, of any legal process shall constitute lawful and valid service of process in any proceeding, suit, or controversy. The parties shall bring any legal proceeding arising out of or connected with this Agreement only in the Federal or State courts located in the County of Cook, State of Illinois, which courts shall apply the laws as aforesaid. In the event that either party institutes any legal proceeding in any court other than a court located in the County of Cook, State of Illinois, that party shall assume all of the costs incurred in transferring said proceeding to a court located in the County of Cook, State of Illinois, including but not limited to the other party's attorney's and paralegal fees. Notwithstanding anything in this Agreement to the contrary, venue for any action relating to the title or foreclosure proceedings of the Collateral shall lie in Lake County, Indiana, the place of location of such collateral.

In the event that any provision or clause of this Modification, the Notes or any of the Other Security Documents conflicts with applicable law, or is adjudicated to be invalid or unenforceable, same shall not affect other provisions of this Modification, the Note Amendments, the Consent and Reaffirmation or any of the Other Security Documents which can be given effect without the conflicting provision, and to this end the provisions of this Modification, the Note Amendments, the Consent and Reaffirmation or any of the Other Security Documents are declared to be severable and the validity or enforceability of the remainder of the Loan Document in question shall be construed without reference to the conflicting, invalid or unenforceable clause or provision.

[SIGNATURE APPEARS ON FOLLOWING PAGE]

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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.

COVINGTON DEVELOPMENT, LLC, an Indiana limited liability company

By: OD Enterprises, Inc., an Indiana corporation  
Its: Manager

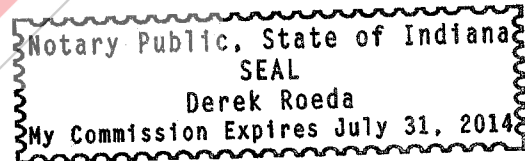
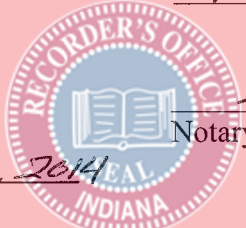
By: [Signature]  
Name: Scot Olthof  
Title: TREASURER

STATE OF INDIANA )  
  )  
COUNTY OF LAKE )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Scot Olthof, personally known to me to be the TREASURER of OD Enterprises, Inc., an Indiana corporation, which is the Manager of Covington Development, LLC, an Indiana limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as the TREASURER, he signed and delivered said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to the authority given by the Board of Directors of said corporation, as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 3<sup>rd</sup> day of JULY, 2009.

My Commission Expires: JULY 31, 2014  
Notary Public [Signature] DEREK ROEDA



**EXHIBIT "A"**

**Legal Description**

The Northwest Quarter of the Southwest Quarter of Section 22, Township 34 North, Range 8 West of the Second Principal Meridian, in Lake County, Indiana.

