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

OFFICE OF THE RECORDER  
LAKE COUNTY, INDIANA

CROSS REFERENCE INSTRUMENT NO. 2006035171

**MODIFICATION OF JUNIOR MORTGAGE  
AND OTHER SECURITY DOCUMENTS**

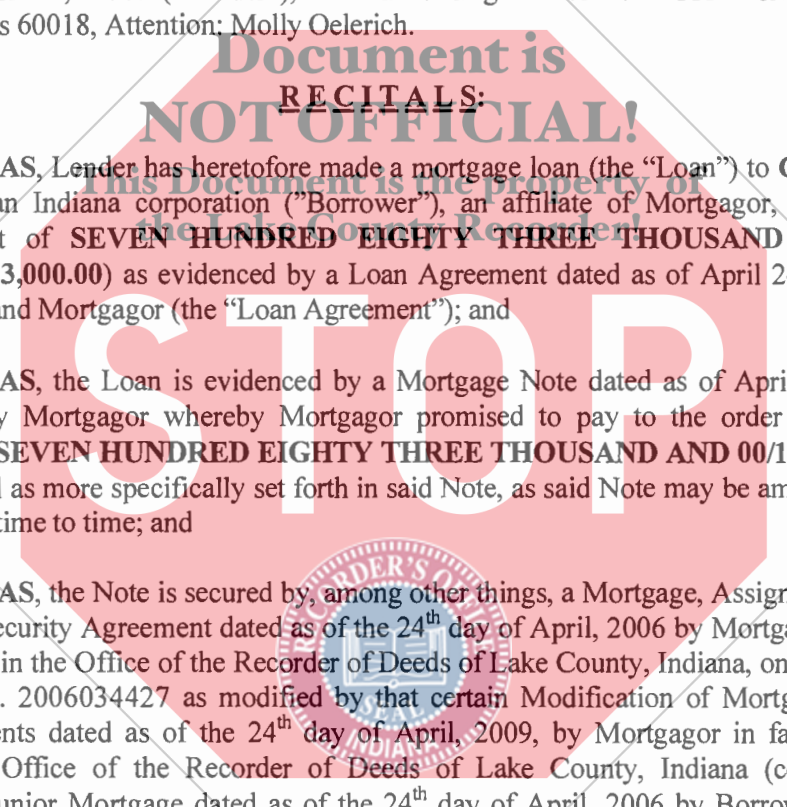
THIS MODIFICATION OF JUNIOR MORTGAGE AND OTHER SECURITY DOCUMENTS ("Modification") is made effective as of the 23<sup>rd</sup> day of July, 2009 by and between SUMMERTREE DEVELOPMENT, LLC, an Indiana limited liability company, having its principal office at 9616 Indianapolis Boulevard, Highland, Indiana 46322 ("Mortgagor") and MB FINANCIAL BANK, N.A. ("Lender"), with a mailing address of 6111 North River Road, Rosemont, Illinois 60018, Attention: Molly Oelerich.

**RECITALS:**

WHEREAS, Lender has heretofore made a mortgage loan (the "Loan") to CP Real Estate Holdings Inc., an Indiana corporation ("Borrower"), an affiliate of Mortgagor, in the original principal amount of SEVEN HUNDRED EIGHTY THREE THOUSAND AND 00/100 DOLLARS (\$783,000.00) 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 a Mortgage Note dated as of April 24, 2006 (the "Note") made by Mortgagor whereby Mortgagor promised to pay to the order of Lender the principal sum of SEVEN HUNDRED EIGHTY THREE THOUSAND AND 00/100 DOLLARS (\$783,000.00), all as more specifically set forth in said Note, as said Note may be amended, restated or replaced from time to time; and

WHEREAS, the Note is secured by, among other things, a Mortgage, Assignment of Leases and Rents, and Security Agreement dated as of the 24<sup>th</sup> 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 25, 2006 as Document No. 2006034427 as modified by that certain Modification of Mortgage and Other Security Documents dated as of the 24<sup>th</sup> day of April, 2009, by Mortgagor in favor of Lender, recorded in the Office of the Recorder of Deeds of Lake County, Indiana (collectively, the "Mortgage"), a Junior Mortgage dated as of the 24<sup>th</sup> day of April, 2006 by Borrower in favor of Lender, recorded in the Office of the Recorder of Deeds of Lake County, Indiana, on April 27, 2006 as Document No. 2006035171 (the "Junior Mortgage") and a Guaranty of Payment dated as of the 24<sup>th</sup> day of April, 2006 as reaffirmed by that certain Consent and Reaffirmation of Guarantors and Modification of Guaranty of Payment dated as of the 24<sup>th</sup> day of April, 2009 (collectively, the



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“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 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 Note to September 5, 2010, reduce the Interest Rate floor to four percent (4.0%) and the Loan cross-collateralized and cross-defaulted with those certain loans from Lender to Deer Creek Holdings, LLC, an Indiana limited liability company, an affiliate of Borrower; and

**WHEREAS**, the parties desire to modify and amend the terms of the Loan as provided herein and as a condition to such modification, Lender is requiring: (i) this Modification; (ii) a Second Modification of Mortgage and Other Security Documents dated of even date herewith executed by Borrower (the “Mortgage Modification”), whereby the Mortgage and the other documents evidencing and securing the Loan are modified to secure the Note as modified by the Note Amendment; (iii) a Second Amendment to Mortgage Note dated of even date herewith executed by Mortgagor (the “Note Amendment”), whereby the Note is modified to extend the Maturity Date and reduce the Interest Rate floor as provided above; and (iv) a Second Consent and Reaffirmation of Guarantors executed by Guarantors (“Guaranty Reaffirmation”).

**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 Junior 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 Junior Mortgage and the Other Security Documents.
2. **Modification of Junior Mortgage and Other Security Documents.** The Junior Mortgage and Other Security Documents are hereby modified by deleting the text “July 23, 2009” where it appears and substituting therefor the text “September 5, 2010”.
3. **References to Note.** From and after the date hereof (i) the Junior Mortgage and the Other Security Documents shall be deemed to secure the Note as modified by the Note Amendment; and (ii) any and all references in the Junior Mortgage or the Other Security Documents to the “Note” shall be deemed to refer to the Note as modified by the Note Amendment.
4. **References to Loan Documents.** Any and all references in the Note, the Junior Mortgage, 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.

5. **Ratification.** The Note, Junior Mortgage, the Mortgage and Other Security Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect pursuant to the terms and conditions set forth therein, except to the extent expressly modified hereby or by the Note Amendment.

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

7. **Successors and Assigns.** This Modification shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

8. **RELEASE.** MORTGAGOR AND GUARANTORS AND ANY OTHER OBLIGOR UNDER THE INDEBTEDNESS, ON BEHALF OF THEMSELVES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS (COLLECTIVELY AND INDIVIDUALLY THE "MORTGAGOR PARTIES"), HEREBY FULLY, FINALLY AND COMPLETELY RELEASE, ACQUIT AND FOREVER DISCHARGE, AND AGREE TO HOLD HARMLESS LENDER AND ITS RESPECTIVE SUCCESSORS, ASSIGNS, AFFILIATES, SUBSIDIARIES, PARENTS, OFFICERS, SHAREHOLDERS, DIRECTORS, EMPLOYEES, ATTORNEYS, AGENTS AND PROPERTIES, PAST, PRESENT AND FUTURE, AND THEIR RESPECTIVE HEIRS, SUCCESSORS AND ASSIGNS (COLLECTIVELY AND INDIVIDUALLY THE "LENDER PARTIES"), OF AND FROM ANY AND ALL CLAIMS, CONTROVERSIES, DISPUTES, LIABILITIES, OBLIGATIONS, DEMANDS, DAMAGES, DEBTS, LIENS, ACTIONS, AND CAUSES OF ACTION OF ANY AND EVERY NATURE WHATSOEVER, KNOWN OR UNKNOWN, WHETHER AT LAW, BY STATUTE OR IN EQUITY, IN CONTRACT OR IN TORT, UNDER STATE OR FEDERAL JURISDICTION, AND WHETHER OR NOT THE ECONOMIC EFFECTS OF SUCH ALLEGED MATTERS ARISE OR ARE DISCOVERED IN THE FUTURE (COLLECTIVELY, THE "CLAIMS"), WHICH THE MORTGAGOR PARTIES HAVE AS OF THE EFFECTIVE DATE OR MAY CLAIM TO HAVE AGAINST THE LENDER PARTIES, INCLUDING BUT NOT LIMITED TO, ANY CLAIMS ARISING OUT OF OR WITH RESPECT TO ANY AND ALL TRANSACTIONS RELATING TO THE LOANS DESCRIBED HEREIN OR THE LOAN DOCUMENTS OCCURRING ON OR BEFORE THE EFFECTIVE DATE, INCLUDING BUT NOT LIMITED TO, ANY LOSS, COST OR DAMAGE OF ANY KIND OR CHARACTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH OR IN ANY WAY RESULTING FROM THE ACTS, ACTIONS OR OMISSIONS OF THE LENDER PARTIES OCCURRING ON OR BEFORE THE EFFECTIVE DATE. THE FOREGOING RELEASE IS INTENDED TO BE, AND IS, A FULL, COMPLETE AND GENERAL RELEASE IN FAVOR OF THE LENDER PARTIES WITH RESPECT TO ALL CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION AND OTHER MATTERS DESCRIBED THEREIN, OR ANY OTHER THEORY, CAUSE OF ACTION, OCCURRENCE, MATTER OR THING WHICH MIGHT RESULT IN LIABILITY UPON THE LENDER PARTIES ARISING OR OCCURRING ON OR BEFORE THE EFFECTIVE DATE. THE MORTGAGOR PARTIES UNDERSTAND AND AGREE THAT THE FOREGOING GENERAL RELEASE IS IN CONSIDERATION FOR THE AGREEMENTS OF LENDER CONTAINED HEREIN AND THAT THEY WILL

RECEIVE NO FURTHER CONSIDERATION FOR SUCH RELEASE. FURTHERMORE, EACH OF THE MORTGAGOR PARTIES REPRESENTS AND WARRANTS TO LENDER THAT SHE, HE OR IT: (I) READ THIS MODIFICATION, INCLUDING WITHOUT LIMITATION, THE RELEASE SET FORTH IN THIS SECTION (THE “RELEASE PROVISION”), AND UNDERSTANDS ALL OF THE TERMS AND CONDITIONS HEREOF, AND (II) EXECUTES THIS MODIFICATION VOLUNTARILY WITH FULL KNOWLEDGE OF THE SIGNIFICANCE OF THIS MODIFICATION AND THE RELEASES CONTAINED HEREIN AND EXECUTION HEREOF. THE MORTGAGOR PARTIES AGREE TO ASSUME THE RISK OF ANY AND ALL UNKNOWN, UNANTICIPATED, OR MISUNDERSTOOD CLAIMS THAT ARE RELEASED BY THIS RELEASE.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

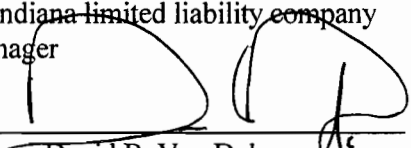


IN WITNESS WHEREOF, the parties have caused this Modification to be executed pursuant to authority duly granted as of the date and year first written above.

**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

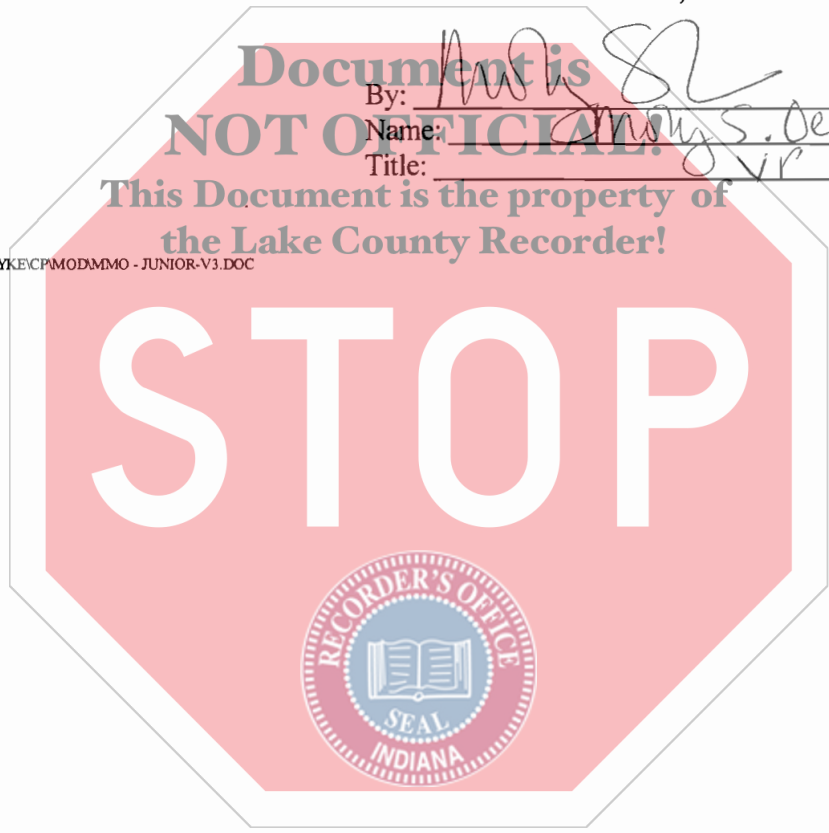
**MB FINANCIAL BANK, N.A.**

Document is  
**NOT OFFICIAL!**

By:   
Name: Amy S. Oetench  
Title: VP

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the Lake County Recorder!

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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 5<sup>th</sup> day of November, 2009.

Cynthia J. Dernalc  
Notary Public

My Commission expires: 12-9-16



STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, JEAN M. Lamberth, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Molly Delerich Vice President 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.

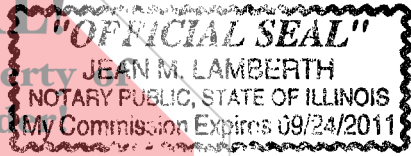
GIVEN under my hand and seal, this 30<sup>th</sup> day of November, 2009.

Jean M. Lamberth  
Notary Public

My Commission expires:

9/24/2011

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I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.  
John B. Baxter



No: 620062410

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1.

Part of Section 2, Township 34 North, Range 8 West of the Second Principal Meridian, more particularly described as follows:

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, 99.20 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, EXCEPTING therefrom the following described land:

Lots 1 to 7, both inclusive, Lots 37 to 53, both inclusive, Lots 61 to 97, both inclusive, and Outlots A, B and C, in SUMMERTREE, PHASE ONE, an Addition to the City of Crown Point, Lake County, Indiana, as per plat thereof recorded in Plat Book 99, page 48, in the Office of the Recorder of Lake County, Indiana.



**PARCEL 2:**

Lots 1 to 7, both inclusive, Lots 37 to 53, both inclusive, Lots 61 to 97, both inclusive, and Outlots A, B and C, in SUMMERTREE, PHASE ONE, an Addition to the City of Crown Point, Lake County, Indiana, as per plat thereof recorded in Plat Book 99, page 48, in the Office of the Recorder of Lake County, Indiana.

