



# UNOFFICIAL COPY

## DEVON BANK

AFTER RECORDING MAIL TO:

Devon Bank  
6445 N. Western Ave.  
Chicago, IL 60645

Prepared By/Send tax bills to:  
Syed Z. Ali  
Devon Bank  
6445 N. Western Ave.  
Chicago, IL 60645



Doc#: 0700326106 Fee: \$50.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/03/2007 12:29 PM Pg: 1 of 14

H64470 [Space Above This Line For Recording Data]

TRANSACTION NO. 6508250700

HERITAGE TITLE COMPANY

## MORTGAGE

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 10, 12, 17, 19, and 20. Certain rules regarding the usage of words used in this document are also provided in Section 15.

(A) "Security Instrument" means this document, which is dated December 28, 2006, together with all Riders to this document.

(B) "Buyer" is Adam Menk. Buyer is the mortgagor under this Security Instrument.

(C) "Seller" is Devon Bank. Seller is a banking corporation organized and existing under the laws of Illinois. Seller's address is 6445 N. Western Ave., Chicago, Illinois 60645. Seller is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Buyer and dated December 28, 2006. The Note states that Buyer owes Seller Murabaha Debt of Five Hundred Twenty Three Thousand & Three Hundred Fifty Three Dollar 60/100 Dollars (U.S.\$523,353.60). Buyer has promised to pay this Murabaha Debt in regular Periodic Payments and to pay the Murabaha Debt in full not later than January 1st, 2037.

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Murabaha Debt" means the debt evidenced by the Note and all sums due under this Security Instrument.

(G) "Riders" means all Riders to this Security Instrument that are executed by Buyer. The following Riders are to be executed by Buyer [check box as applicable]:

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider         | <input type="checkbox"/> Second Home Rider                |
| <input type="checkbox"/> Condominium Rider           | <input type="checkbox"/> Planned Unit Development Rider | <input checked="" type="checkbox"/> Due on Transfer Rider |
| <input type="checkbox"/> Other(s) [specify] _____    |   |   |

14LC

# UNOFFICIAL COPY

(H) **"Applicable Law"** means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) **"Community Association Dues, Fees, and Assessments"** means all dues, fees, assessments and other charges that are imposed on Buyer or the Property by a condominium association, homeowners association or similar organization.

(J) **"Electronic Funds Transfer"** means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) **"Escrow Items"** means those items that are described in Section 3.

(L) **"Miscellaneous Proceeds"** means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) **"Periodic Payment"** means the regularly scheduled amount due for (i) Seller's Cost and Profit under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(N) **"RESPA"** means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 5500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Murabaha Debt does not qualify as a "federally related mortgage loan" under RESPA.

(O) **"Successor in Interest of Buyer"** means any party that has taken title to the Property, whether or not that party has assumed Buyer's obligations under the Note and/or this Security Instrument.

## TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Seller: (i) the repayment of the Murabaha Debt, and all renewals, extensions and modifications of the Note; and (ii) the performance of Buyer's covenants and agreements under this Security Instrument and the Note. For this purpose, Buyer does hereby mortgage, grant and convey to Seller and Seller's successors and assigns the following described property located in the County of Cook:

LOT 133 IN DR, PRICE'S RIVER PARK SUBDIVISION OF THE WEST 3/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 10, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 13-10-406-008-0000

which currently has the address of 5037 North Lowell Avenue, Chicago, Illinois 60630 ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

# UNOFFICIAL COPY

BUYER COVENANTS that Buyer is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Buyer warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Buyer and Seller covenant and agree as follows:

**1. Payment of Murabaha Debt, Escrow Items, and Late Charges.** Buyer shall pay when due the Murabaha Debt and late charges due under the Note. Buyer shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Seller as payment under the Note or this Security Instrument is returned to Seller unpaid, Seller may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Seller: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Seller when received at the location designated in the Note or at such other location as may be designated by Seller in accordance with the notice provisions in Section 14. Seller may return any payment or partial payment if the payment or partial payments are insufficient to bring the Murabaha Debt current. Seller may accept any payment or partial payment insufficient to bring the Murabaha Debt current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Seller is not obligated to apply such payments at the time such payments are accepted. Seller may hold such unapplied funds until Buyer makes payment to bring the Murabaha Debt current. If Buyer does not do so within a reasonable period of time, Seller shall either apply such funds or return them to Buyer. If not applied earlier, such funds will be applied to the outstanding Murabaha Debt balance under the Note immediately prior to foreclosure. No offset or claim which Buyer might have now or in the future against Seller shall relieve Buyer from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Seller shall be applied in the following order of priority: (a) amounts due under the Murabaha Debt; and (b) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the Murabaha Debt. If Seller receives a payment from Buyer for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Seller may apply any payment received from Buyer to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to the Murabaha Debt due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Buyer shall pay to Seller on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; and (c) premiums for any and all insurance required by Seller under Section 5. These items are called "Escrow Items." At origination or at any time during the term of the Murabaha Debt, Seller may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Buyer, and such dues, fees and assessments shall be an Escrow Item. Buyer shall promptly furnish to Seller all notices of amounts to be paid under this Section. Buyer shall pay Seller the Funds for Escrow Items unless Seller waives Buyer's obligation to pay the Funds for any or all Escrow Items. Seller may waive Buyer's obligation

# UNOFFICIAL COPY

to pay to Seller Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Buyer shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Seller and, if Seller requires, shall furnish to Seller receipts evidencing such payment within such time period as Seller may require. Buyer's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Buyer is obligated to pay Escrow Items directly, pursuant to a waiver, and Buyer fails to pay the amount due for an Escrow Item, Seller may exercise its rights under Section 9 and pay such amount and Buyer shall then be obligated under Section 9 to repay to Seller any such amount. Seller may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 14 and, upon such revocation, Buyer shall pay to Seller all Funds, and in such amounts, that are then required under this Section 3.

Seller may, at any time, collect and hold Funds in an amount (a) sufficient to permit Seller to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Seller shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Seller, if Seller is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Seller shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Seller shall not charge Buyer for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Seller pays Buyer interest on the Funds and Applicable Law permits Seller to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Seller shall not be required to pay Buyer any interest or earnings on the Funds. If Applicable Law requires interest to be paid on such Funds, Seller shall pay interest and Buyer may donate it to a charity of his choosing. Seller shall give to Buyer, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Seller shall account to Buyer for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Seller shall notify Buyer as required by RESPA, and Buyer shall pay to Seller the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Seller shall notify Buyer as required by RESPA, and Buyer shall pay to Seller the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Seller shall promptly refund to Buyer any Funds held by Seller.

**4. Charges; Liens.** Buyer shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Buyer shall pay them in the manner provided in Section 3.

Buyer shall promptly discharge any lien which has priority over this Security Instrument unless Buyer: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Seller, but only so long as Buyer is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Seller's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Seller subordinating the lien to this Security Instrument. If Seller determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Seller may give Buyer a notice identifying the lien. Within 10 days of the date on which that notice is given, Buyer shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Seller may require Buyer to pay a one-time charge for a real estate tax verification and/or reporting service used by Seller in connection with this Murabaha Debt.



# UNOFFICIAL COPY

**5. Property Insurance.** Buyer shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Seller requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Seller requires. What Seller requires pursuant to the preceding sentences can change during the term of the Murabaha Debt. The insurance carrier providing the insurance shall be chosen by Buyer subject to Seller's right to disapprove Buyer's choice, which right shall not be exercised unreasonably. Seller may require Buyer to pay, in connection with this Murabaha Debt, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Buyer shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Buyer.

If Buyer fails to maintain any of the coverages described above, Seller may obtain insurance coverage, at Seller's option and Buyer's expense. Seller is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Seller, but might or might not protect Buyer, Buyer's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Buyer acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Buyer could have obtained. Any amounts disbursed by Seller under this Section 5 shall be an additional debt of Buyer secured by this Security Instrument. These amounts shall be payable upon notice from Seller to Buyer requesting payment. All insurance policies required by Seller and renewals of such policies shall be subject to Seller's right to disapprove such policies, shall include a standard mortgage clause, and shall name Seller as mortgagee and/or as an additional loss payee. Seller shall have the right to hold the policies and renewal certificates. If Seller requires, Buyer shall promptly give to Seller all receipts of paid premiums and renewal notices. If Buyer obtains any form of insurance coverage, not otherwise required by Seller, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Seller as mortgagee and/or as an additional loss payee.

In the event of loss, Buyer shall give prompt notice to the insurance carrier and Seller. Seller may make proof of loss if not made promptly by Buyer. Unless Seller and Buyer otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Seller, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Seller's security is not lessened. During such repair and restoration period, Seller shall have the right to hold such insurance proceeds until Seller has had an opportunity to inspect such Property to ensure the work has been completed to Seller's satisfaction, provided that such inspection shall be undertaken promptly. Seller may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Seller shall not be required to pay Buyer any interest or earnings on such proceeds. If Applicable Law requires interest to be paid on such insurance proceeds, Seller shall pay interest and Buyer may donate it to a charity of his choosing. Fees for public adjusters, or other third parties, retained by Buyer shall not be paid out of the insurance proceeds and shall be the sole obligation of Buyer. If the restoration or repair is not economically feasible or Seller's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Buyer. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Buyer abandons the Property, Seller may file, negotiate and settle any available insurance claim and related matters. If Buyer does not respond within 30 days to a notice from Seller that the insurance carrier has offered to settle a claim, then Seller may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Seller acquires the Property under Section 21 or otherwise, Buyer hereby assigns to Seller (a) Buyer's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Buyer's rights (other than the right to any refund of unearned premiums paid by Buyer) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Seller may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

# UNOFFICIAL COPY

**6. Occupancy.** Buyer shall occupy, establish, and use the Property as Buyer's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Buyer's principal residence for at least one year after the date of occupancy, unless Seller otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Buyer's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Buyer shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste

on the Property. Whether or not Buyer is residing in the Property, Buyer shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Buyer shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Buyer shall be responsible for repairing or restoring the Property only if Seller has released proceeds for such purposes. Seller may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Buyer is not relieved of Buyer's obligation for the completion of such repair or restoration.

Seller or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Seller may inspect the interior of the improvements on the Property. Seller shall give Buyer notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Buyer's Murabaha Debt Application.** Buyer shall be in default if, during the Murabaha Debt application process, Buyer or any persons or entities acting at the direction of Buyer or with Buyer's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Seller (or failed to provide Seller with material information) in connection with the Murabaha Debt. Material representations include, but are not limited to, representations concerning Buyer's occupancy of the Property as Buyer's principal residence.

**9. Protection of Seller's Interest in the Property and Rights Under this Security Instrument.** If (a) Buyer fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Seller's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Buyer has abandoned the Property, then Seller may do and pay for whatever is reasonable or appropriate to protect Seller's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Seller's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Seller may take action under this Section 9, Seller does not have to do so and is not under any duty or obligation to do so. It is agreed that Seller incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Seller under this Section 9 shall become additional obligations of Buyer secured by this Security Instrument. These amounts shall be payable upon notice from Seller to Buyer requesting payment. If this Security Instrument is on a leasehold, Buyer shall comply with all the provisions of the lease. If Buyer acquires fee title to the Property, the leasehold and the fee title shall not merge unless Seller agrees to the merger in writing.

**10. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Seller. If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Seller's security is not lessened. During such repair and restoration period, Seller shall have the right to hold such Miscellaneous Proceeds until Seller has had an opportunity to inspect such Property to ensure the work has been completed to Seller's

# UNOFFICIAL COPY

satisfaction, provided that such inspection shall be undertaken promptly. Seller may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Seller shall not be required to pay Buyer any interest or earnings on such Miscellaneous Proceeds. If Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Seller shall pay interest and Buyer may donate it to a charity of his choosing. If the restoration or repair is not economically feasible or Seller's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Buyer. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Buyer.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Buyer and Seller otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Buyer.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Buyer and Seller otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Buyer, or if, after notice by Seller to Buyer that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Buyer fails to respond to Seller within 30 days after the date the notice is given, Seller is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Buyer Miscellaneous Proceeds or the party against whom Buyer has a right of action in regard to Miscellaneous Proceeds.

Buyer shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Seller's judgment, could result in forfeiture of the Property or other material impairment of Seller's interest in the Property or rights under this Security Instrument. Buyer can cure such a default and, if acceleration has occurred, reinstate as provided in Section 18, by causing the action or proceeding to be dismissed with a ruling that, in Seller's judgment, precludes forfeiture of the Property or other material impairment of Seller's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Seller's interest in the Property are hereby assigned and shall be paid to Seller.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**11. Buyer Not Released; Forbearance By Seller Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Seller to Buyer or any Successor in Interest of Buyer shall not operate to release the liability of Buyer or any Successors in Interest of Buyer. Seller shall not be required to commence proceedings against any Successor in Interest of Buyer or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Buyer or any Successors in Interest of Buyer. Any forbearance by Seller in exercising any right or remedy including, without limitation, Seller's acceptance of payments from third persons, entities or Successors in Interest of Buyer or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

# UNOFFICIAL COPY

**12. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Buyer covenants and agrees that Buyer's obligations and liability shall be joint and several. However, any Buyer who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Seller and any other Buyer can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 17, any Successor in Interest of Buyer who assumes Buyer's obligations under this Security Instrument in writing, and is approved by Seller, shall obtain all of Buyer's rights and benefits under this Security Instrument. Buyer shall not be released from Buyer's obligations and liability under this Security Instrument unless Seller agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 19) and benefit the successors and assigns of Seller.

**13. Murabaha Debt Charges.** Seller may charge Buyer fees for services performed in connection with Buyer's default, for the purpose of protecting Seller's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Buyer shall not be construed as a prohibition on the charging of such fee. Seller may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Murabaha Debt is subject to a law which sets maximum loan charges and that law is finally interpreted so that the amount collected or to be collected in connection with the Murabaha Debt exceed the permitted limits, then: (a) any such charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Buyer which exceeded permitted limits will be refunded to Buyer. Seller may choose to make this refund by reducing the Murabaha Debt owed under the Note or by making a direct payment to Buyer. Buyer's acceptance of any such refund made by direct payment to Buyer will constitute a waiver of any right of action Buyer might have arising out of such overcharge.

**14. Notices.** All notices given by Buyer or Seller in connection with this Security Instrument must be in writing. Any notice to Buyer in connection with this Security Instrument shall be deemed to have been given to Buyer when mailed by first class mail or when actually delivered to Buyer's notice address if sent by other means. Notice to any one Buyer shall constitute notice to all Buyers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Buyer has designated a substitute notice address by notice to Seller. Buyer shall promptly notify Seller of Buyer's change of address. If Seller specifies a procedure for reporting Buyer's change of address, then Buyer shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Seller shall be given by delivering it or by mailing it by first class mail to Seller's address stated herein unless Seller has designated another address by notice to Buyer. Any notice in connection with this Security Instrument shall not be deemed to have been given to Seller until actually received by Seller. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**15. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**16. Buyer's Copy.** Buyer shall be given one copy of the Note and of this Security Instrument.



# UNOFFICIAL COPY

**17. Transfer of the Property or a Beneficial Interest in Buyer.** As used in this Section, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Buyer at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Buyer is not a natural person and a beneficial interest in Buyer is sold or transferred) without Seller's prior written consent, Seller may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Seller if such exercise is prohibited by Applicable Law.

If Seller exercises this option, Seller shall give Buyer notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 14 within which Buyer must pay all sums secured by this Security Instrument. If Buyer fails to pay these sums prior to the expiration of this period, Seller may invoke any remedies permitted by this Security Instrument without further notice or demand on Buyer.

**18. Buyer's Right to Reinstate After Acceleration.** If Buyer meets certain conditions, Buyer shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 21 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Buyer's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Buyer: (a) pays Seller all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Seller's interest in the Property and rights under this Security Instrument; and (d) takes such action as Seller may reasonably require to assure that Seller's interest in the Property and rights under this Security Instrument, and Buyer's obligation to pay the sums secured by this Security Instrument, shall continue unchanged unless as otherwise provided under Applicable Law. Seller may require that Buyer pay such reinstatement sums and expenses in one or more of the following forms, as selected by Seller: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Buyer, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 17.

**19. Transfer of Note; Change of Murabaha Debt Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be transferred one or more times without prior notice to Buyer. A transfer might result in a change in the entity (known as the "Murabaha Debt Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other Murabaha Debt collection servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Murabaha Debt Servicer unrelated to a transfer of the Note. If there is a change of the Murabaha Debt Servicer, Buyer will be given written notice of the change which will state the name and address of the new Murabaha Debt Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is assigned and thereafter the Murabaha Debt is serviced by a Murabaha Debt Servicer other than the assignee of the Note, the Murabaha Debt servicing obligations to Buyer will remain with the Murabaha Debt Servicer or be transferred to a successor Murabaha Debt Servicer and are not assumed by the Note assignee unless otherwise provided by the Note assignee.

Neither Buyer nor Seller may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Buyer or Seller has notified the other party (with such notice given in compliance with the requirements of Section 14) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Buyer pursuant to Section 21 and the notice of acceleration

# UNOFFICIAL COPY

given to Buyer pursuant to Section 17 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section.

**20. Hazardous Substances.** As used in this Section: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup. Buyer shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Buyer shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Buyer shall promptly give Seller written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Buyer has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Buyer learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Buyer shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Seller for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Buyer and Seller further covenant and agree as follows:

**21. Acceleration; Remedies.** Seller shall give notice to Buyer prior to acceleration following Buyer's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 17 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Buyer, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Buyer of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Buyer to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Seller at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Seller shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

**22. Release.** Upon payment of all sums secured by this Security Instrument, Seller shall release this Security Instrument. Buyer shall pay any recordation costs. Seller may charge Buyer a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

**23. Waiver of Homestead.** In accordance with Illinois law, the Buyer hereby releases and waives all rights under and by virtue of the Illinois homestead exemption laws.

**24. Placement of Collateral Protection Insurance.** Unless Buyer provides Seller with evidence of the insurance coverage required by Buyer's agreement with Seller, Seller may purchase insurance at Buyer's expense to protect Seller's interests in Buyer's collateral. This insurance may, but need not, protect Buyer's interests. The coverage that Seller purchases may not pay any claim that Buyer makes or any claim that is made against Buyer in

# UNOFFICIAL COPY

connection with the collateral. Buyer may later cancel any insurance purchased by Seller, but only after providing Seller with evidence that Buyer has obtained insurance as required by Buyer's and Seller's agreement. If Seller purchases insurance for the collateral, Buyer will be responsible for the costs of that insurance, including any charges Seller may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to Buyer's total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance Buyer may be able to obtain on its own.

BY SIGNING BELOW, Buyer accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Buyer and recorded with it.

Witnesses:

Adam Menk  
Adam Menk (Printed Name)

(Signature)

Fatema Menk  
Fatema Menk

(Signature)

*Signing for the Sole purpose Waiving Homestead Rights*

\_\_\_\_\_[Space Below This Line For Acknowledgment]\_\_\_\_\_

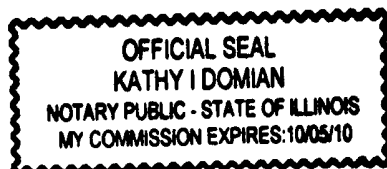
STATE OF ILLINOIS,  
COOK COUNTY ss:

I, Kathy I. Domian, a Notary Public in and for said county and state, do hereby certify that Adam Menk, personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he/ she /they signed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth.  
\* and Fatema Menk

Given under my hand and official seal, this 28th day of December, 2006.

My Commission expires: 10/05/10

Kathy I. Domian  
Notary Public



# UNOFFICIAL COPY

## 1 - 4 FAMILY RIDER

(Assignments of Rents)

**LOAN NO. 6508850700**

THIS 1-4 FAMILY RIDER is made this **28TH** day of **DECEMBER**, **2006**, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to

**DEVON BANK**

**AN ILLINOIS BANKING CORP**

(the "Lender") of the same

date and covering the Property described in the Security Instrument and located at:

**5037 N. LOWELL AVENUE  
CHICAGO, IL 60630**

[Property Address]

**1-4 FAMILY COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. ADDITIONAL PROPERTY SUBJECT TO THE SECURITY INSTRUMENT.** In addition to the Property described in Security Instrument, the following items now or hereafter attached to the Property to the extent they are fixtures are added to the Property description, and shall also constitute the Property covered by the Security Instrument: building materials, appliances and goods of every nature whatsoever now or hereafter located in, on, or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, attached mirrors, cabinets, paneling and attached floor coverings, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by the Security Instrument. All of the foregoing together with the Property described in the Security Instrument (or leasehold estate if the Security Instrument is on a leasehold) are referred to in this 1-4 Family Rider and the Security Instrument as the "Property."

**B. USE OF PROPERTY; COMPLIANCE WITH LAW.** Borrower shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Lender has agreed in writing to the change. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

**C. SUBORDINATE LIENS.** Except as permitted by federal law, Borrower shall not allow any lien inferior to the Security Instrument to be perfected against the Property without Lender's prior written permission.

MULTISTATE 1-4 FAMILY RIDER - Single Family - Fannie Mac/Freddie Mac UNIFORM INSTRUMENT



# UNOFFICIAL COPY

**D. RENT LOSS INSURANCE.** Borrower shall maintain insurance against rent loss in addition to the other hazards for which insurance is required by Section 5.

**E. "BORROWER'S RIGHT TO REINSTATE" DELETED.** Section 19 is deleted.

**F. BORROWER'S OCCUPANCY.** Unless Lender and Borrower otherwise agree in writing, Section 6 concerning Borrower's occupancy of the Property is deleted.

**G. ASSIGNMENT OF LEASES.** Upon Lender's request after default, Borrower shall assign to Lender all leases of the Property and all security deposits made in connection with leases of the Property. Upon the assignment, Lender shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Lender's sole discretion. As used in this paragraph G, the word "lease" shall mean "sublease" if the Security Instrument is on a leasehold.

**H. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** Borrower absolutely and unconditionally assigns and transfers to Lender all the rents and revenues ("Rents") of the Property, regardless of to whom the Rents of the Property are payable. Borrower authorizes Lender or Lender's agents to collect the Rents, and agrees that each tenant of the Property shall pay the Rents to Lender or Lender's agents. However, Borrower shall receive Rents until (i) Lender has given Borrower notice of default pursuant to Section 22 of the Security Instrument and (ii) Lender has given notice to the tenant(s) that the Rents are to be paid to Lender or Lender's agent. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of default to Borrower: (i) all Rents received by Borrower shall be held by Borrower as trustee for the benefit of Lender only, to be applied to the sums secured by the Security Instrument; (ii) Lender shall be entitled to collect and receive all of the Rents of the Property; (iii) Borrower agrees that each tenant of the Property shall pay all Rents due and unpaid to Lender or Lender's agents upon Lender's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Lender or Lender's agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the Security Instrument; (v) Lender, Lender's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Lender shall be entitled to have a receiver appointed to take possession of and manage the Property and collect Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

If the Rents of the Property are not sufficient to cover the costs of taking control of and managing the Property and of collecting the Rents any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by the Security Instrument pursuant to Section 9.

Borrower represents and warrants that Borrower has not executed any prior assignment of the Rents and has not performed, and will not perform, any act that would prevent Lender from exercising its rights under this paragraph.

Lender, or Lender's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain the Property before or after giving notice of default to Borrower. However, Lender, or Lender's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of Rents of the Property shall terminate when all the sums secured by the Security Instrument are paid in full.

**I. CROSS-DEFAULT PROVISION.** Borrower's default or breach under any note or agreement in which Lender has an interest shall be a breach under the Security Instrument and Lender may invoke any of the remedies permitted by the Security Instrument.

# UNOFFICIAL COPY

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this 1-4 Family Rider.

*Adam Menk*

(Seal)  
-Borrower

**ADAM MENK**

*Fatema Menk #1*

(Seal)  
-Borrower

**FATEMA MENK**

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

*[Sign Original Only]*