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Date: 03/23/2007 03:30 PM Pg: 1 of 11

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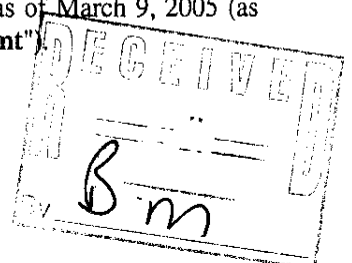
Joseph C. Huntzicker, Esq.  
Fox, Hefter, Swibel, Levin & Carroll, LLP  
321 North Clark Street, Suite 3300  
Chicago, Illinois 60610

FIRST MODIFICATION OF LOAN AGREEMENT, MORTGAGE  
AND OTHER LOAN DOCUMENTS

THIS FIRST MODIFICATION OF LOAN AGREEMENT, MORTGAGE AND OTHER LOAN DOCUMENTS (this "First Modification") is made and entered into as of March 22, 2007 by and among Agatite Properties, L.L.C., an Illinois limited liability company ("Borrower"), Charles Mady, an individual ("Mady"), MDC-Blackhawk Properties, Ltd., a Texas limited partnership ("MDC Ltd"), MDC-Blackhawk Developments, LLC, a Texas limited liability company ("MDC LLC"; MDC LLC, Mady and MDC Ltd are each a "Guarantor" and collectively the "Guarantors"), and Fifth Third Bank (Chicago) ("Lender").

RECITALS

- A. Pursuant to the Construction Loan Agreement dated as of March 9, 2005 (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement") between Lender and Borrower, Lender made a construction loan (the "Loan") to Borrower in the original-principal amount of One Million Six Hundred Forty Eight Thousand Six Hundred Twenty Nine Dollars (\$1,648,629). The Loan is evidenced by the Promissory Note dated as of March 9, 2005 (as amended, restated, supplemented or otherwise modified from time to time, the "Note") executed by Borrower in favor of Lender in the original principal amount of One Million Six Hundred Forty Eight Thousand Six Hundred Twenty Nine Dollars (\$1,648,629).
- B. The Loan is secured by (i) a Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing from Borrower dated as of March 9, 2005 by Borrower in favor of Lender and recorded in the Office of the Recorder of Cook County, Illinois (the "Recorder's Office") on April 26, 2005 as Document Number 0511650076 (as amended, restated or otherwise modified, the "Mortgage"); (ii) an Assignment of Leases and Rents dated as of March 9, 2005 by Borrower in favor of Lender and recorded in the Office of the Recorder of Cook County, Illinois on April 26, 2005 as Document Number 0511650077 (as amended, restated or otherwise modified, the "Assignment of Leases"); and (iii) a Security Agreement from Borrower dated as of March 9, 2005 (as amended, restated or otherwise modified, the "Security Agreement").



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- C. The Original Loan is further evidenced or secured by (i) certain UCC financing statements from Borrower (the "UCC Statements"); (ii) an Environmental Indemnity Agreement dated as of March 9, 2005 by Borrower and Guarantors in favor of Lender (as amended, restated, supplemented or otherwise modified, the "**Environmental Agreement**"); (iii) a Guaranty of Payment dated as of March 9, 2005 by Guarantors in favor of Lender (as amended, restated or otherwise modified, the "**Guaranty of Payment**"), and (iv) a Guaranty of Completion dated as of March 9, 2005 by Guarantors in favor of Lender (as amended, restated or otherwise modified, the "**Guaranty of Completion**").
- D. The Loan Agreement, Note, the Mortgage, the Assignment of Leases, the Security Agreement, the UCC Statements, the Environmental Agreement, the Guaranty of Payment, the Guaranty of Completion and all other documents executed in connection with the Loan are hereinafter collectively referred to herein as the "**Loan Documents**".
- E. The original maturity date for the Loan, as specified in the Loan Agreement, was August 9, 2006. Borrower previously exercised its option under Section 4.4 of the Loan Agreement to extend the maturity date for Loan from August 9, 2006 until March 9, 2007.
- F. The parties have agreed to enter into this First Modification to, among other things, extend the Maturity Date (as defined under the Loan Agreement) from March 9, 2007 until September 9, 2007.
- G. The property subject to the Mortgage and the Assignment of Leases is legally described in Exhibit A attached hereto and made part hereof (the "**Property**"). In connection with the sale of certain Units (such Units, the "**Sold Units**") under Section 7.8 of the Loan Agreement, Lender has previously released the Sold Units from the lien and security interest of the Mortgage.

NOW, THEREFORE, for and in consideration of Ten and No/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 First Modification by reference as if fully set forth in this Section 1. Wherever the terms and conditions of any of the Loan Documents conflict with the terms and conditions of this First Modification, the terms and conditions of this First Modification shall control.

2. **Defined Terms.** Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to such terms in the Loan Agreement.

3. **Amendments to the Loan Agreement.** Subject to the satisfaction of the conditions set forth in Section 7 hereof, the Loan Agreement is hereby amended as follows:

(a) The defined term "Maturity Date" set forth in Section 2.1 of the Loan Agreement is hereby amended and restated in its entirety as follows:

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""Maturity Date": September 9, 2007, unless the principal balance is due earlier by way of acceleration."

(b) Section 4.4 of the Loan Agreement is hereby amended and restated in its entirety as follows:

"The entire principal balance of the Note and all accrued and unpaid interest thereon shall be due, if not sooner paid, on the Maturity Date."

4. **Amendments to Mortgage.** Subject to the satisfaction of the conditions set forth in Section 7 hereof, the Mortgage is hereby amended as follows:

(a) Recital D set forth in the Mortgage is hereby amended and restated in its entirety as follows: "The Loan, if not sooner paid, shall be due and payable on September 9, 2007 (the "Maturity Date")."

5. **Omnibus Amendments to Loan Documents.** Subject to the satisfaction of the conditions set forth in Section 7 hereof, each of the Loan Documents is hereby reaffirmed and amended as follows:

(a) To the extent applicable, the defined terms "Loan Agreement", "Note" and "Mortgage", together with any other defined terms, under each of the Loan Documents are hereby amended such that such defined terms shall include any respective amendments or other modifications from time to time thereto.

(b) Each party to the Loan Documents hereby ratifies and reaffirms his, her or its respective obligations under the Loan Documents. Each party further agrees that the Loan Documents shall remain in full force and effect following the execution and delivery of the Amendment Documents, that all references to the "Loan Documents" in any of the Loan Documents shall be deemed to refer to the Loan Documents as amended by this First Modification. Except as expressly set forth herein, the Loan Documents shall remain unmodified and in full force and effect.

6. **Ratification.** This First Modification, subject to satisfaction of the conditions provided below, shall constitute an amendment to the Loan Documents as appropriate to express the agreements contained herein. Except as specifically set forth herein, the Loan Documents shall remain unchanged and in full force and effect in accordance with their original terms.

7. **Conditions to Effectiveness.** Borrower agrees that it will, as a condition precedent to the effectiveness of this First Modification, execute and deliver or cause to be executed and delivered the following documents and instruments in form and substance satisfactory to Lender:

(a) This First Modification executed by the parties hereto;

(b) A ratification and reaffirmation of the Guaranty of Payment, the Guaranty of Completion and the Environmental Agreement executed by each Guarantor;

(c) An authority certificate and resolutions of Borrower and such other documents as may be required by Lender to evidence all necessary authorization by Borrower to enter into the transactions contemplated by this First Modification;

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(d) Borrower shall have paid to Lender a nonrefundable fee in the amount of Two Thousand Five Hundred Dollars (\$2,500), which shall be fully earned by Lender as of its receipt thereof;

(e) Borrower shall have paid to Lender in cash the amount of Lender's legal fees and expenses for the First Modification;

(f) Lender shall have received such other agreements, documents and other items as Lender may require; and

It is a further condition precedent to the effectiveness of this First Modification that no default, Event of Default or event which with the giving of notice or passage of time would constitute a default or Event of Default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transaction contemplated herein.

## 8. Miscellaneous.

(a) Warranties and Absence of Defaults. To induce Lender to enter into this First Modification, Borrower hereby represents and warrants to Lender that:

(i) In respect of the Contractors Claim for Mechanics' Lien by Alpha Construction Management, Inc. ("Alpha") and recorded in the Office of the Recorder of Cook County, Illinois on November 27, 2006 as Document Number 0633134091, (a) Borrower has served a notice to Alpha in accordance with Section 34 of the Mechanics Lien Act (770 ILCS 60/0.01 et seq. (the "Act")) requiring Alpha to file suit to foreclose or enforce Alpha's lien (the "Thirty Day Notice"), (b) Alpha failed to file suit within thirty (30) days of Alpha's receipt of such notice, and (c) as a result thereof, Alpha's mechanic lien is void under the Act. Borrower hereby agrees to deliver to Lender, within forty five (45) days of the date hereof, either (a) evidence of the discharge from the Recorder's Office of Alpha's mechanic lien or (b) evidence of delivery to Alpha of the Thirty Day Notice;

(ii) The execution, delivery and performance by it of this First Modification and each of the other agreements, instruments and documents contemplated hereby are within its corporate, company, partnership or personal power, have been duly authorized, by all necessary corporate, company or partnership action, have received all necessary governmental approval (if any shall be required), and do not and will not contravene or conflict with any provision of law applicable to it, its articles of incorporation, articles of association or comparable formation documents (as applicable), and by-laws, operating agreement, partnership agreement or comparable documents (as applicable), any order, judgment or decree of any court or governmental agency, or any agreement, instrument or document binding upon it or any of its property;

(iii) Each of the Loan Documents, as amended by this First Modification, are the legal, valid and binding obligation of it enforceable against it in accordance with its terms, except as the enforcement thereof may be subject to (A) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally, and (B) general principles of equity;

(iv) The representations and warranties made by it contained in the Loan Documents are true and accurate as of the date hereof with the same force and effect as if such had been made on and as of the date hereof; and

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(v) It has performed all of its obligations under the Loan Documents to be performed by it on or before the date hereof and as of the date hereof, it is in compliance with all applicable terms and provisions of the Loan Documents to be observed and performed by it and no default or other Event of Default or other event which upon notice or lapse of time or both would constitute a default or other Event of Default has occurred.

(b) Expenses. Borrower agrees to pay on demand all costs and expenses of Lender (including the fees and expenses of outside counsel for Lender) in connection with the preparation, negotiation, execution, delivery and administration of this First Modification and all other instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith. In addition, Borrower agrees to pay, and save Lender harmless from all liability for, any stamp or other taxes which may be payable in connection with the execution or delivery of this First Modification or the Loan Documents, as amended hereby, and the execution and delivery of any instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith. All obligations provided herein shall survive any termination of the Loan Documents as amended hereby.

(c) Captions. Section captions used in this First Modification are for convenience only, and shall not affect the construction of this First Modification.

(d) Governing Law. This First Modification shall be a contract made under and governed by the internal laws of the State of Illinois. Whenever possible each provision of this First Modification shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this First Modification shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this First Modification.

(e) Successors and Assigns. This First Modification shall be binding upon and shall inure to the sole benefit of Borrower and Lender and their respective successors and assigns.

(f) References. Any reference to the Loan Documents contained in any notice, request, certificate, or other document executed concurrently with or after the execution and delivery of this First Modification shall be deemed to include this First Modification unless the context shall otherwise require.

(g) Construction. Borrower acknowledges that it has been represented by its own legal counsel in connection with this First Modification, that it has exercised independent judgment with respect to this First Modification, and that it has not relied on the Lender's counsel for any advice with respect to this First Modification.

(h) Counterparts. This First Modification may be executed in any number of counterparts, and by the parties hereto on the same or separate counterparts, and each such counterpart, when executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same First Modification. This First Modification may be executed by virtue of transmission of facsimile signature pages, each of which shall for all purposes be deemed as fully effective as the original thereof.

## 9. Release.

(a) In consideration of the agreements of Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower, on behalf of itself and its respective successors, assigns, and other legal representatives, hereby absolutely,

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unconditionally and irrevocably releases, remises and forever discharges Lender, and its successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Lender and all such other persons being hereinafter referred to collectively as the "Releasees" and individually as a "Releasee"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a "Claim" and collectively, "Claims") of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which Borrower or any of its successors, assigns, or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this First Modification, including, without limitation, for or on account of, or in relation to, or in any way in connection with any of the Loan Documents or transactions thereunder or related thereto.

(b) Borrower understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

[signature pages follow]

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IN WITNESS WHEREOF, the parties hereto have executed this First Modification as of the date first above written.

Lender

**FIFTH THIRD BANK (CHICAGO)**

By: [Signature]  
Name: Jerry Vye  
Title: Portfolio Manager

Borrower

**AGATITE PROPERTIES, L.L.C.**, an Illinois limited liability company

By: [Signature]  
Name: ANTHONY M. GHITO  
Title: Manager

Guarantors

**CHARLES WADY**, an individual

By: [Signature]

**MDC-BLACKHAWK PROPERTIES, LTD.**, a Texas limited partnership

By: MDC-Blackhawk Developments, LLC  
Its: General Partner

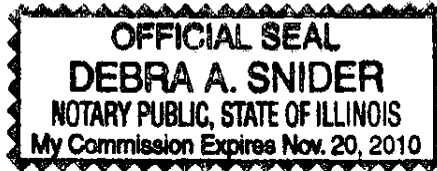
By: [Signature]  
Name: G. R. MUKHERJEE  
Title: Vice President

**MDC-BLACKHAWK DEVELOPMENTS, L.L.C.**, a Texas limited liability company

By: [Signature]  
Name: G. R. MUKHERJEE  
Title: Vice President

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

I, Debra A. Snider Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Jerry P Vye, as T.M. of Fifth Third Bank (Chicago), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Jerry P Vye, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of said bank, as his own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

Given under my hand and Notarial seal, this 22nd day of March, 2007.

Debra A. Snider  
Notary Public

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, Mario Di Lorenzo a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Anthony Caire, as manager of Agatite Properties, L.L.C., an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Manager, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of said company, as his own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22 day of March, 2007.

Mario Di Lorenzo  
Notary Public



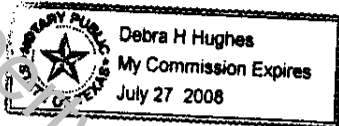


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STATE OF TEXAS )  
 ) SS.  
COUNTY OF DALLAS )

I, DEBRA HUGHES, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Charles Mady, personally known to me, appeared before me this day in person and acknowledged that he signed and delivered said instrument, as his own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of MARCH, 2007.

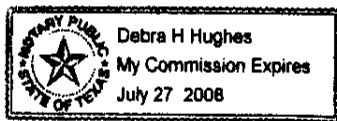


Debra H. Hughes  
NOTARY PUBLIC

STATE OF TEXAS )  
 ) SS.  
COUNTY OF DALLAS )

I, DEBRA HUGHES, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that G. J. PURLIZ, 233 PRESIDENT of MDC-Blackhawk Developments, LLC, a Texas limited liability company, which is the general partner of MDC-Blackhawk Properties, Ltd., a Texas limited partnership, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such general partner, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of said association, as his own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of MARCH, 2007.



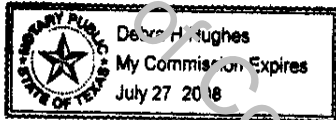
Debra H. Hughes  
NOTARY PUBLIC

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STATE OF TEXAS )  
 ) SS.  
COUNTY OF DALLAS )

I, DEBRA HUGHES, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that G.T. POKLICK, as V. PRESIDENT of MDC-Blackhawk Developments, LLC, a Texas limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such general partner, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of said association, as his own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20<sup>th</sup> day of MARCH, 2007.



Debra H. Hughes  
NOTARY PUBLIC

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## Exhibit A

### LEGAL DESCRIPTION

LOT 12 IN BLOCK 1 IN IRVING PARK HOME BUILDING COMPANY'S SUBDIVISION NUMBER 3, BEING A SUBDIVISION OF THE PART OF THE NORTH ½ OF LOT 6 IN THE SCHOOL TRUSTEE'S SUBDIVISION OF SECTION 16, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING BETWEEN MILWAUKEE AVENUE AND THE RIGHT OF WAY OF THE CHICAGO TERMINAL TRANSFER RAILROAD IN COOK COUNTY, ILLINOIS.

EXCEPTING OUT THE FOLLOWING: UNIT NOS. 5126-3, 5126-2, 5136-2, 5138-1, 5138-3, P1A-B, P2, P3, S-1, S-3, S-5, S-11 AND S-12 ALL IN JEFFERSON POINTE CONDOMINIUM.

5126-38 West Agatite  
Chicago, Illinois 60630.

Permanent Tax Number: 13-16-223-013