

# UNOFFICIAL COPY



Doc#: 0835445099 Fee: \$68.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 12/19/2008 03:25 PM Pg: 1 of 17

This instrument prepared by  
and please return to:

Polsinelli Shalton Flanigan Suelthaus PC  
180 North Stetson Avenue, Suite 4525  
Chicago, Illinois 60601-6733  
Attention: Kimberly K. Enders, Esq.  
Loan # 112014089-1

P.I.N.: 16 08-226-022  
COMMONLY KNOWN AS: 420 N. Waller Avenue, Chicago, Illinois

## LOAN MODIFICATION AGREEMENT

This instrument is a Loan Modification Agreement ("Modification") among First Chicago Bank & Trust, an Illinois banking corporation ("Lender"), Lake and Waller, LLC, an Illinois limited liability company ("Borrower") and Brad Anthony, David Doig, Tom Fiddler and Michael Scott (collectively, "Guarantors").

### RECITALS:

A. Borrower holds fee simple title to the real estate commonly known as 420 N. Waller Avenue, Chicago, Illinois, which is legally described on **Exhibit A** attached hereto ("Real Estate"). Guarantors are affiliated with Borrower.

B. On November 1, 2007, Lender granted a loan to Borrower in the amount of Three Million Two Hundred Ten Thousand (\$3,210,000.00) Dollars ("Loan"), which is evidenced by a Promissory Note in the principal amount of Three Million Two Hundred Ten Thousand

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(\$3,210,000.00) Dollars ("Note"). Concurrently therewith, Borrower, Guarantors and other parties executed and delivered to Lender the following documents (collectively "Security Documents"):

1. a Construction Loan Agreement ("Loan Agreement");
2. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing, which was recorded with the Cook County Recorder of Deeds on November 5, 2007 as Document No. 0730934066 ("Mortgage");
3. an Assignment of Rents and Lessor's Interest in Leases which was recorded with the Cook County Recorder of Deeds on November 5, 2007 as Document No. 0730934067;
4. Financing Statement, which was recorded with the Cook County Recorder of Deeds on November 5, 2007 as Document No. 0730934068;
5. Agreement to Provide Insurance;
6. an Environmental Indemnity Agreement executed by Borrower and Guarantors;
7. a Guaranty executed by Brad Anthony; ("Anthony Guaranty");
8. a Guaranty executed by David Doig; ("Doig Guaranty");
9. a Guaranty executed by Tom Fiddler; ("Fiddler Guaranty");
10. a Guaranty executed by Michael Scott ("Scott Guaranty," together with the Anthony Guaranty, the Doig Guaranty and the Scott Guaranty, the "Guarantees");
11. Assignment of Plans and Specifications executed by Borrower;
12. Assignment of Contract Documents and Intangibles executed by Borrower;
13. Assignment of Name of Project executed by Borrower;
14. Assignment of General Contract executed by Borrower and Anthony Homes, Inc.;

and

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15. a Security Agreement executed by Borrower.

C. Borrower is the beneficiary of a Tax Increment Financing Bond ("TIF Bond") for the Madison/Austin Tax Increment Finance District in Chicago, Illinois, pursuant to which the City of Chicago has executed and delivered to Borrower a certain promissory note in the amount of \$1,310,000.00 ("TIF Note") and the Assignment of the TIF Note.

D. The Loan matured on November 1, 2008. Borrower has now requested Lender to extend the maturity date of the Loan from November 1, 2008 until February 5, 2009. Lender is agreeable to this request subject to the covenants, conditions and restrictions contained herein including but not limited to an increase in the interest rate applicable to the Loan.

**NOW, THEREFORE**, in consideration of good and valuable consideration, the parties agree as follows:

1. The Note is hereby modified and amended in its entirety by the Revised Promissory Note in the amount of Three Million Two Hundred Ten Thousand (\$3,210,000.00) Dollars executed concurrently herewith, a copy of which is attached as **Exhibit B** ("Revised Note"). The Revised Note evidences the outstanding principal balance of the Loan.

2. The Security Documents are hereby modified and amended to secure the Revised Note, as hereby modified and all references to the Revised Note as hereby modified. All interest charged and all payments made on the Note previously are unchanged.

3. Borrower must assign its interest in the TIF Bond to Lender pursuant to a Pledge Agreement and must deliver the original TIF Note and an Allonge to the TIF Note and endorse the TIF Note, if issued, to Lender. The City of Chicago must consent to this Assignment.

4. This Modification shall be effective upon Lender's receipt of this Modification executed by the parties hereto and the following documents and items:

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- (a) The Revised Promissory Note in the amount of Three Million Two Hundred Ten Thousand (\$3,210,000.00) Dollars executed by Borrower;
- (b) a Revised Guaranty executed by Guarantors;
- (c) an Organizational Resolution of Borrower;
- (d) a Certification of No Change to Organizational Documents executed by Borrower's managing member;
- (e) an LLC File Detail Report printout from the Illinois Secretary of State's website showing the good standing status of Borrower;
- (f) a Pledge Agreement executed by Borrower assigning the TIF bond and TIF Note;
- (g) if issued, the TIF Note and an Allonge endorsing the TIF Note to Lender;
- (h) payment of the fees and costs set forth in Section 8 hereof; and
- (i) a date down endorsement to Lender's loan title insurance policy.

5. This Modification shall constitute an amendment of the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note ("Loan Documents") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Mortgage as revised by this Modification, or the covenants, conditions and agreements therein contained or contained in the Note.

6. In the event of conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall override and control.

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7. Borrower and Guarantor hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

8. Borrower hereby agrees to pay Lender a fee in the amount of \$1,000.00 ("Loan Fee") for this Modification and all of Lender's expenses arising out of and in connection with this Modification including, but not limited to, attorneys' fees, title insurance premiums and recording fees.

9. Guarantor hereby expressly acknowledges and confirms that by executing this Modification, Lender has not waived, altered or modified Lender's rights under any of the Loan Documents to amend, extend, renew or modify or otherwise deal with the obligations of the parties hereto or any of the security given to Lender in connection therewith without the consent of Guarantor and without such action releasing, modifying, or affecting the obligations of Guarantor or affecting the security heretofore granted to Lender.

**10. BORROWER AND GUARANTORS KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY THE RIGHT THEY MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE NOTE, THE REVISED NOTE, THIS MODIFICATION, THE MORTGAGE, THE SECURITY DOCUMENTS, OR ANY OF THE DOCUMENTS EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH OR ANY COURSE OF CONDUCT OR COURSE OF DEALING, IN WHICH LENDER, BORROWER AND/OR GUARANTORS ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER OR GUARANTORS, OR ANY OF THEM.**

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11. BORROWER AND GUARANTORS HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY STATE COURT SITTING IN COOK COUNTY, ILLINOIS OR ANY FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING BASED HEREON AND BORROWER AND GUARANTORS HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH STATE OR FEDERAL COURT. BORROWER AND GUARANTORS HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. BORROWER AND GUARANTORS IRREVOCABLY CONSENT TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO BORROWER AND GUARANTORS AT THEIR ADDRESSES AS SPECIFIED HEREIN OR OTHERWISE IN THE RECORDS OF LENDER. BORROWER AND GUARANTORS AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING, AFTER ALL APPEAL RIGHTS ARE EXHAUSTED, SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

BORROWER AND GUARANTORS AGREE NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST LENDER OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY THEREOF, IN ANY COURT OTHER THAN THE ONE HEREINABOVE SPECIFIED. NOTHING IN THIS SECTION SHALL

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**AFFECT THE RIGHT OF LENDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF LENDER TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER AND GUARANTORS OR THEIR PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS; PROVIDED, HOWEVER, UNLESS LENDER IS REQUIRED BY LAW TO INSTITUTE PROCEEDINGS IN ANY OTHER JURISDICTION, LENDER SHALL FIRST INSTITUTE PROCEEDINGS IN A STATE COURT SITTING IN COOK COUNTY, ILLINOIS OR ANY FEDERAL COURT SITTING IN CHICAGO, ILLINOIS.**

12. Borrower and Guarantors warrant to Lender that neither Borrower nor Guarantors nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "Blocked Persons Lists") including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower and Guarantors covenant to Lender that if they become aware that they or any affiliate are identified on any Blocked Persons List, Borrower and Guarantors shall immediately notify Lender in writing of such information. Borrower and Guarantors further agree that in the event they or any affiliate are at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Lender to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, Lender may immediately contact the Office of Foreign Assets Control and any other government agency Lender deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of

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such Event of Default, Lender will forbear enforcement of its rights and remedies during such time as: (1) the person ("Person") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Blocked Persons List, and (2) Lender determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of Lender and encumbering, any part of the Premises (as defined in the Mortgage) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

*Signature page follows*



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IN WITNESS WHEREOF, the parties hereto have executed this Modification on

November 28, 2008 to take effect as of November 1, 2008.


**LENDER:**

First Chicago Bank & Trust, an Illinois banking corporation


By:   
Its Arif

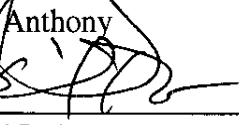
**BORROWER:**

Lake and Waller, LLC, an Illinois limited liability company


  
David Doig, Manager

**GUARANTORS:**

  
Brad Anthony

  
David Doig

  
Tim Fuller

  
Michael Scott

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF C O O K )

The undersigned, a Notary Public in and for the State and County aforesaid, do hereby certify that Alexander Duck, A.V.P. of First Chicago Bank & Trust, an Illinois banking corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal November 28, 2008.

Sonia Rodriguez  
Notary Public



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF C O O K )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that David Doig, individually and as the Manager of Lake and Waller, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of such limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal November 28, 2008.

Sonia Rodriguez  
Notary Public

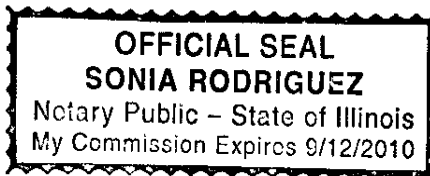


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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

Sonia Rodriguez, a Notary Public in and for the State and County aforesaid, does hereby certify that Brad Anthony, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal November 28<sup>th</sup>, 2008.  
Sonia Rodriguez  
Notary Public



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

Sonia Rodriguez, a Notary Public in and for the State and County aforesaid, does hereby certify that Tim Fiddler, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal November 28<sup>th</sup>, 2008.  
Sonia Rodriguez  
Notary Public



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STATE OF ILLINOIS       )  
  )  
COUNTY OF COOK       )       SS

Sonia Rodriguez, a Notary Public in and for the State and County aforesaid, does hereby certify that Michael Scott, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal November 28<sup>th</sup>, 2008.

Sonia Rodriguez  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION:

THE EAST 50 FEET OF LOT 431 AND ALL OF LOT 432 (EXCEPT THE NORTH 170 FEET OF EACH LOT) IN AUSTIN'S RESUBDIVISION OF BLOCK 9 IN THAT PART OF AUSTINVILLE LYING IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 13, COMPRISING THE WEST PART OF AUSTINVILLE, BEING AUSTIN AND MERRICK'S SUBDIVISION OF THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 8 AND THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 420 NORTH WALLER, CHICAGO, ILLINOIS 60644

PIN: 16-08-226-022

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**EXHIBIT B**  
**PROMISSORY NOTE**  
**("Revised Note")**

\$3,210,000.00

As of November 1, 2008

**FOR VALUE RECEIVED** the undersigned, Lake and Waller, LLC, an Illinois limited liability company ("Borrower"), promises to pay to the order of First Chicago Bank & Trust, an Illinois banking corporation (said Bank and each successive owner and holder of this Note being hereinafter called "Holder"), the principal sum of Three Million Two Hundred Ten Thousand (\$3,210,000.00) Dollars, or so much thereof as may from time to time be outstanding hereunder, together with interest on the balance of principal from time to time remaining unpaid, in the amounts, at the rates and on the dates hereafter set forth.

The rate of interest payable on this Note will change from time to time as hereafter provided. Monthly payments on account of this Note shall be adjusted from time to time as the rate of interest changes. Payments on account of this Note shall be made as follows:

(a) On November 5, 2008 and on the fifth day of each succeeding month thereafter until all amounts due hereunder are paid, there shall be paid on account of this Note interest for the preceding month at a rate equal to the greater of (i) six and one-half percent (6.5%) or (ii) the prime rate of interest announced and in effect from time to time at First Chicago Bank & Trust as it varies plus two percent (2.0%) per annum. The rate of interest shall change each time the prime rate is changed.

(b) On February 5, 2009 ("Maturity Date"), the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

The prime rate of First Chicago Bank & Trust is currently the highest prime rate of interest published in The Wall Street Journal. If this index is no longer available, Bank will choose a new index in compliance with applicable law and will notify Borrower of its choice. Borrower acknowledges that it is advised that said rate is not Bank's lowest or most favorable lending rate.

Interest shall be calculated on the basis of a calendar year having three hundred sixty (360) days and shall be paid for the actual days outstanding.

This Note may be prepaid, in whole or in part, without premium or penalty, in whole or in part, and all accrued interest hereon shall be payable and shall be paid on the date of prepayment.

Payment upon this Note shall be made in lawful money of the United States at such place as the Holder of this Note may from time to time in writing appoint and in the absence of such appointment, shall be made at the offices of First Chicago Bank & Trust, 1145 North Arlington Heights Road, Itasca, Illinois 60143.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of interest is not paid within ten (10) days after the date the same is due, the undersigned

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promises to pay a late charge ("Late Charge") of five (5.0%) percent of the amount so overdue to defray the expense incident to handling any such delinquent payment or payments.

This Note is executed pursuant to a Loan Modification Agreement ("Modification") executed concurrently herewith. This Note replaces that certain Promissory Note in the amount of Three Million Two Hundred Ten Thousand (\$3,210,000.00) Dollars ("Original Note") made by Borrower on November 1, 2007 which is secured by a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing, which was recorded on November 5, 2007 with the Cook County Recorder of Deeds as Document No. 0730934066 and other documents, all being executed and delivered concurrently therewith. All interest rates applicable to and charged on the Original Note and all payments made on the Original Note are unchanged. Pursuant to the Modification, the Mortgage and other security documents ("Security Documents") are modified to secure this Note.

At the election of the Holder hereof, without notice, the principal sum remaining unpaid hereon, together with accrued interest, shall be and become at once due and payable in the case of default for five (5) days in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any "Event of Default" under the Security Documents.

Under the provisions of the Security Documents the unpaid balance hereunder may, at the option of the Holder, be accelerated and become due and payable forthwith upon the happening of certain events as set forth therein. The Security Documents are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

The principal hereof, including each installment of principal, shall bear interest after the occurrence of an event of default, not cured within the applicable cure period, at the annual rate (herein called the "Default Rate") determined by adding three (3.0%) percentage points to the interest rate then required to be paid, as above provided, on the principal balance.

No failure on the part of Bank or any holder hereof to exercise any right or remedy hereunder, whether before or after the occurrence of an event of default, shall constitute a waiver thereof, and no waiver of any past default shall constitute a waiver of any future default or of any other default. No failure to accelerate, nor acceptance of a past-due installment nor indulgence granted shall be construed to be a waiver of the right to insist upon prompt payment and to impose the late payment penalty and the default rate, retroactively or prospectively, or shall be deemed a waiver of any right of acceleration or any other right which Bank may have, whether by law or agreement or otherwise. None of the foregoing shall operate to release, change or effect the liability of Borrower, or any endorser or guarantor of this Note, and Borrower and each endorser or guarantor hereby expressly waive the benefit of any statute or rule of law or equity which would produce a result contrary to or in conflict with the foregoing.

Borrower waives notice of default, presentment, notice of dishonor, protest and notice of protest.



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If this Note is placed in the hands of an attorney for collection or is collected through any legal proceeding, the undersigned promises to pay all costs incurred by Bank in connection therewith including, but not limited to, court costs, litigation expenses and attorneys' fees.

Payments received on account of this Note shall be applied first to the payment of any amounts due pursuant to the next preceding paragraph, second to interest and Late Charges and the balance to principal.

Funds representing the proceeds of the indebtedness evidenced herein which are disbursed by Holder by mail, wire transfer or other delivery to Borrower, escrowees or otherwise for the benefit of Borrower shall, for all purposes, be deemed outstanding hereunder and received by Borrower as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such mailing, wire transfer or other delivery until repaid to Holder, notwithstanding the fact that such funds may not at any time have been remitted by escrowees to Borrower.

**BORROWER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES IRREVOCABLY THE RIGHT IT MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE MODIFICATION, THE LOAN AGREEMENT, THE MORTGAGE, OR ANY OF THE OTHER OBLIGATIONS, OR THE COLLATERAL SECURED BY THE SECURITY DOCUMENTS, OR ANY AGREEMENT, EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith OR ANY COURSE OF CONDUCT OR COURSE OF DEALING, IN WHICH HOLDER AND BORROWERS ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR HOLDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER.**

**BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING BASED HEREON, AND BORROWER HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH STATE OR FEDERAL COURT. BORROWER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. BORROWER IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO BORROWER AT ITS ADDRESS AS SPECIFIED IN THE RECORDS OF HOLDER. BORROWER AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.**

**BORROWER AGREES NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST HOLDER OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY THEREOF, IN ANY COURT OTHER THAN**



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**THE ONE HEREINABOVE SPECIFIED. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF HOLDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF HOLDER TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS.**

Borrower warrants to Holder that neither Borrower nor any affiliate are identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "Blocked Persons Lists") including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower covenants to Holder that if it becomes aware that it or any affiliate is identified on any Blocked Persons List, Borrower shall immediately notify Holder in writing of such information. Borrower further agrees that in the event it or any affiliate are at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Holder to exercise any and all remedies provided in any Security Document or otherwise permitted by law. In addition, Holder may immediately contact the Office of Foreign Assets Control and any other government agency the Holder deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of such Event of Default, Holder will forbear enforcement of its rights and remedies during such time as: (1) the person ("Person") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Blocked Persons List, and (2) Holder determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of the Holder and encumbering, any part of the collateral (as defined in the Security Documents) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Security Documents.

Time is of the essence of this Note and each provision hereof and of the Security Documents.

Lake and Waller, LLC, an Illinois limited liability company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

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