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Doc#: 1008540089 Fee: \$58.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 03/26/2010 11:26 AM Pg: 1 of 12

**THIS DOCUMENT PREPARED BY:**

Crowley & Lamb, P.C.  
350 North LaSalle Street, Suite 900  
Chicago, Illinois 60610

**AFTER RECORDING RETURN TO:**

Harris N.A.  
111 W. Monroe Street  
Chicago, Illinois 60603  
Attn: Lynette Dunn

This space reserved for Recorder's use only

FIRST AMERICAN TITLE

ORDER # 1986328

## MODIFICATION OF LOAN DOCUMENTS

**THIS MODIFICATION OF LOAN DOCUMENTS** (this "Agreement") is made effective as of the 29th day of January, 2010, by and among **JUST SHORT, INC.**, an Illinois corporation (the "Borrower"), which has its chief executive office located at 15701 Heatherglen Drive, Orland Park, IL 60462; **Christina Obrieht, Justin Obrieht, Justanne, LLC**, an Illinois limited liability company, **Just Eat It, Inc.**, an Illinois corporation, **Just Rush, Inc.**, an Illinois corporation, **Justin Obrieht Trust dated March 6, 2006** and **Christina Obrieht Trust dated March 6, 2006** (jointly and severally, "Guarantor"); and **HARRIS N.A.**, its successors and/or assigns, having an address as set forth above ("Lender").

### RECITALS:

A. Lender made certain loans (each a "Loan"; collectively the "Loans") to Borrower as evidenced by a Non-Revolver Line of Credit Note I ("Note I") dated October 19, 2009 in the original principal amount of \$1,305,000.00 executed by Borrower in favor of Lender and a Non-Revolver Line of Credit Note II dated October 19, 2009 in the original principal amount of \$405,000.00 executed by Borrower in favor of Lender ("Note II"; together with Note I, the "Notes"). The Loans are also evidenced and secured by that certain Loan and Security Agreement dated October 19, 2009 between Borrower and Lender ("Loan Agreement").

B. The Notes are secured by, among other things: (i) that certain Mortgage, Security Agreement and Assignment of Leases, Rents and Profits (the "Senior Mortgage") dated October 19, 2009 executed by Borrower in favor of Lender and recorded with the Recorder of Cook

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County, IL ("Recorder") on December 21, 2009 as Document No. 0935544004 which mortgage encumbers the real property and improvements thereon legally described on Exhibit A attached hereto ("Property"), (ii) Mortgage, Security Agreement and Assignment of Leases, Rents and Profits (the "Junior Mortgage"; together with the Senior Mortgage, the "Mortgage") dated October 19, 2009 executed by Borrower in favor of Lender and recorded with the Recorder on December 21, 2009 as Document No. 0935544005 which mortgage encumbers the Property, (iii) the Guaranty Agreement (the "Guaranty") of Guarantor dated October 19, 2009, guaranteeing payment and performance of all obligations of Borrower under the Note and the other Loan Documents (as hereinafter defined) and (iv) certain other loan documents (the Note, the Loan Agreement, the Guaranty, and any and all other documents evidencing, securing and guarantying the Loan, in their original form and as amended from time to time, are sometimes collectively referred to herein as the "Loan Documents"). Capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Loan Documents.

C. The Borrower and Guarantor have requested that Lender increase the principal amount of Note I and Lender is willing to increase Note I on the terms and conditions more fully set forth hereinafter and in the Amended Note (defined below).

## AGREEMENTS:

**NOW, THEREFORE**, in consideration of (i) the Recitals set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender and Borrower to modify the Loan Documents, as provided herein, (iii) Borrower's agreement to pay all of Lender's reasonable attorneys fees and costs in connection with this Agreement, (iv) the covenants and agreements contained herein, and (v) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Modifications to Loan Documents.** The following modifications are hereby made to Note I, the Mortgage and the other Loan Documents:

(a) **Additional Advance.** (i) Lender agrees to advance to Borrower an additional amount of \$126,644.00 (the "Additional Advance") and increase the outstanding principal balance of Note I by said amount, subject to the terms and conditions of the Amended Note described hereinafter. The Additional Advance shall be used as set forth in clause (ii) below. Based on the Additional Advance, the Mortgage and the other Loan Documents (including but not limited to the Loan Agreement) are hereby amended to increase the Note I principal amount to One Million Four Hundred Thirty One Thousand Six Hundred Forty Four and 00/100ths Dollars U.S. (\$1,431,644.00).

(ii) The Additional Advance shall be used to construct or complete construction of the Improvements, and the Improvements shall be completed in accordance with the original schedule provided by Borrower to Lender. Borrower shall cause to be paid in full all costs and expenses in connection with the Improvements. Lender will disburse loan proceeds under such terms and conditions as Lender may deem reasonably necessary to insure that the interest created by the Mortgage shall have priority over all other possible liens, including those of material suppliers and workmen, including disbursement through the construction escrow established for

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the Loan. Lender may require, among other things, that disbursement requests be supported by receipted bill, expense affidavits, waivers of liens, construction progress reports, and such other documentation as Lender may reasonably request. The Mortgage shall constitute a "construction mortgage" for the purposes of Sections 9-334 and 2A-309 of the Uniform Commercial Code, as those sections have been adopted by the State of Illinois, until completion of the Improvements.

(b) **Definition Amendment.** Section 1.1 of the Loan Agreement is hereby amended by deleting in its entirety the definition of "Non-Revolving Line of Credit I Commitment" and substituting the following therefor:

"Non-Revolving Line of Credit I Commitment" shall mean One Million Four Hundred Thirty One Thousand Six Hundred Forty Four and 00/100ths Dollars U.S. (\$1,431,644.00).

(c) **Equity Contributions.** Not later than February 15, 2010, the Guarantors which are shareholders of the Borrower shall make equity contributions to Borrower in the aggregate amount of \$45,205.02. Such contributions shall be used by Borrower for the Project in a manner satisfactory to Lender. Christina Obrieht and Justin Obrieht shall cause such contributions to timely occur, using proper accounting methods, and shall provide evidence of such contributions as required by Lender.

(d) **Mortgage Amendments.** (i) The third full paragraph of the Senior Mortgage is hereby deleted in its entirety and the following is substituted therefor:

**AND, It is expressly understood and agreed that the Secured Indebtedness will in no event exceed two hundred percent (200%) of (i) \$1,000,000.00 plus (ii) the total interest which may hereafter accrue under the Loan Documents on such amount plus (iii) any fees, costs or expenses which may be payable hereunder.**

(ii) The third full paragraph of the Junior Mortgage is hereby deleted in its entirety and the following is substituted therefor:

**AND, It is expressly understood and agreed that the Secured Indebtedness will in no event exceed two hundred percent (200%) of (i) \$836,644.00 plus (ii) the total interest which may hereafter accrue under the Loan Documents on such amount plus (iii) any fees, costs or expenses which may be payable hereunder.**

Borrower agrees that any violation of the covenants contained in this Section 1 shall be an Event of Default under the Loan Documents

2. **Amendment of the Note I.** Note I shall be amended and restated by that certain Amended and Restated Non-Revolving Line of Credit Note I of even date herewith executed by Borrower in favor of Lender (the "Amended Note") in the principal amount of One Million Four Hundred Thirty One Thousand Six Hundred Forty Four and 00/100ths Dollars U.S.

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(\$1,431,644.00).. As of the date hereof, the Amended Note restates and replaces the Note I and is not a repayment or novation of the Note. All references in any and all Loan Documents to Note I or words of similar import shall now mean the Amended Note. Notwithstanding any other provision of the Loan Documents, the payments and interest rate applicable to Note I shall be as set forth in the Amended Note

3. **Reaffirmation of Guaranty.** Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement and that the Guarantor shall be liable to Lender for all amounts due in connection with the Notes and other Loan Documents. The representations and warranties of Guarantor in the Guaranty are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender under the Guaranty, except as provided in the Guaranty.

4. **Continuing Validity.** Except as expressly modified above, the terms of the original Mortgage, the Notes and the other Loan Documents shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Agreement does not waive Lender's rights to require strict performance of the Mortgage (as amended above) nor obligate Lender to make any future modifications. Nothing in this Agreement shall constitute a satisfaction of the Notes and other Loan Documents secured by the Mortgage. It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Notes, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Agreement.

5. **Releases.** Borrower and Guarantor, in consideration of the execution of this Agreement, and the performance of all terms contained herein to be performed by Lender, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, do hereby remise, release and forever discharge, and by these presents, do for their successors, assigns, heirs, administrators, executors, personal representatives, agents, grantees, and successors in interest, remise, release and forever discharge Lender and its respective successors, assigns, heirs, administrators, officers, personal representatives, attorneys, agents and successors in interest, from all actions, suits, causes of action, damages, expenses, liabilities, claims, accounts and demands, whatsoever, whether or not well-founded in fact or in law which they have, have had, or at any time may have, could have, or might have but for the execution of this Agreement, asserted against Lender, for or by reason of or in respect of any matter, cause or thing whatsoever, whether known or unknown, developed or undeveloped, past, present or future or whether permanent, continuing or otherwise, arising out of or connected with the Loan, the Notes, the other Loan Documents or this Agreement. As of the date hereof, none of Borrower or Guarantor have any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

6. **Representations and Warranties of Borrower and Guarantor.** Borrower and Guarantor hereby represent, covenant and warrant to Lender as follows:

- (a) The representations and warranties in the Notes, the Loan Agreement, the Mortgage and the other Loan Documents are true and correct as of the date hereof.

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(b) There is currently no Event of Default (as defined in the Loan Documents) under the Notes, the Mortgage or the other Loan Documents and neither Borrower nor Guarantor know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Notes, the Mortgage or the other Loan Documents.

(c) The Notes and the other Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower and Guarantor enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower or Guarantor from the date of the most recent financial statement received by Lender.

(e) The execution and delivery of this Agreement, the Amended Note and the performance of the Loan Documents, as modified herein, have been duly authorized by all requisite action by or on behalf of Borrower and Guarantor. This Agreement and all related documents have been duly executed and delivered on behalf of Borrower and Guarantor, as applicable, and are the legal, valid and binding obligations of Borrower and Guarantor, as applicable, enforceable in accordance with their terms.

7. **Title Policy.** As a condition precedent to Lender's agreements contained herein and the effectiveness of this Agreement, Borrower shall, at its sole cost and expense, cause the applicable title company ("Title Company") to issue an endorsement to Lender's title insurance policy (the "Title Policy"), as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Senior Mortgage and second priority of the Junior Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

8. **Conditions Precedent.** As additional conditions precedent to Lender's agreements contained herein and the effectiveness of this Agreement, Borrower shall (i) pay to Lender (1) all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, attorneys' fees and expenses and (2) a loan fee in the amount of \$750.00, (ii) execute and deliver to Lender and cause Guarantor to execute and deliver to Lender two (2) copies of the signature and notary pages to this Agreement, (iii) execute and deliver to Lender the Amended Note, in the form presented by Lender, (iv) cause the SBA to provide its consent to the Additional Advance and (v) execute and deliver and cause the other necessary parties to execute and deliver (1) the resolutions of Borrower and Guarantor, in the form presented by Lender, authorizing this Agreement and related matters and (2) all other documents and instruments reasonably required by Lender in connection with this Agreement.

9. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

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(b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledge and waive any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Notes and the other Loan Documents are and remain unmodified and in full force and effect. In the event of any inconsistency or conflict between this Agreement and the Loan Documents, the terms, provisions and conditions contained in this Agreement shall govern and control

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Mortgage", or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the applicable Note, the applicable Mortgage, and the other applicable Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

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(h) Time is of the essence of Guarantor's and Borrower's obligations under this Agreement.

[SIGNATURE PAGES ATTACHED]

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COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_

COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement dated as of the day and year first above written.

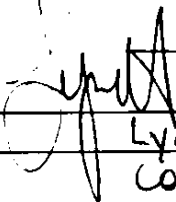
**BORROWER:**

**LENDER:**

**JUST SHORT, INC., an Illinois corporation**

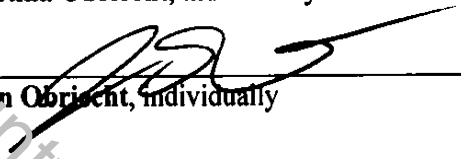
**HARRIS N.A.**

By:   
Christina Obriecht, President


By:   
Its: Lynette Nunn  
Commercial Banking Officer

**GUARANTOR:**

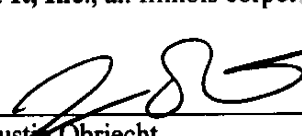
  
Christina Obriecht, individually

  
Justin Obriecht, individually

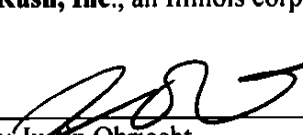
**Justance, LLC, an Illinois limited liability company**

By:   
Name: Justin Obriecht  
Title: authorized member

**Just Eat It, Inc., an Illinois corporation**

By:   
Name: Justin Obriecht  
Title: President

**Just Rush, Inc., an Illinois corporation**

By:   
Name: Justin Obriecht  
Title: President



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**Justin Obriecht Trust dated March 6, 2006**

By:   
Justin Obriecht, Trustee

**Christina Obriecht Trust dated March 6, 2006**

By:   
Christina Obriecht, Trustee

Property of Cook County Clerk's Office

**COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_**

**COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_**

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

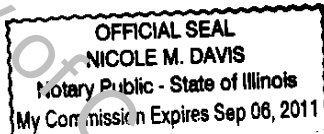
I, NICOLE M. DAVIS, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Lynette Nunn, Officer <sup>President</sup> of **HARRIS N.A.**, known to me to be the same person whose name is subscribed to the foregoing instrument as officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary acts, and as the free and voluntary act of such bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29<sup>th</sup> day of JAN., 2010.

Nicole M. Davis  
Notary Public

My Commission Expires:

9/6/2011



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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

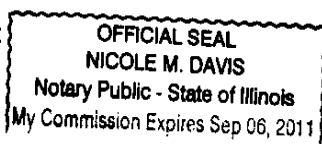
I, NICOLE M. DAVIS, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Christina Obrecht individually, as trustee of \_\_\_\_\_ and as the president of Just Start, Inc., and known to me to be the same person whose name is subscribed to the foregoing instrument, appeared 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 company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29<sup>th</sup> day of JAN., 2010.

Nicole M. Davis  
Notary Public

My Commission Expires:

9/6/2011



\*\*\*\*\*

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, NICOLE M. DAVIS, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Justin Obrecht, individually, as trustee of \_\_\_\_\_ and as the <sup>owner</sup> ~~president~~ of Just Short, and 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 company, for the uses and purposes therein set forth.

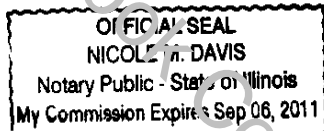
GIVEN under my hand and notarial seal this 29<sup>th</sup> day of JAN., 2010.

Nicole M. Davis

Notary Public

My Commission Expires:

9/6/2011



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## EXHIBIT A

### LEGAL DESCRIPTION

THAT PART OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 15, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF PARK HILL DRIVE AS DEDICATED BY PARK HILL SUBDIVISION UNIT NO. 1-A AND A LINE 57.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST  $\frac{1}{4}$ ; THENCE NORTH  $89^{\circ}48'14''$  WEST, ALONG SAID LINE 57.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST  $\frac{1}{4}$  A DISTANCE OF 324.00 FEET TO THE POINT OF BEGINNING; CONTINUING NORTH  $89^{\circ}48'14''$  WEST, ALONG THE LAST DESCRIBED LINE, 151.65 FEET; THENCE NORTH  $00^{\circ}11'46''$  EAST 100.00 FEET; THENCE SOUTH  $89^{\circ}48'14''$  EAST, ALONG A LINE 157.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST  $\frac{1}{4}$ , A DISTANCE OF 152.00 FEET; THENCE SOUTH  $00^{\circ}23'56''$  WEST 100.00 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

Common address: 9130 W. 159<sup>th</sup> Street, Orland Park, Illinois 60462

PIN: 27-15-400-010-0000, 27-15-400-011-0000