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Cook County Recorder of Deeds
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THIRD MODIFICATION AGREEMENT

Prepared by and, after recording,
Return to:
Robert Leavitt, Esq.
Lewis & Gellen LLP
200 W. Adams St., Suite 1900
Chicago, IL 60606

(Extension/Daily Floating LIBOR)

This Third Modification Agreement ("Agreement") is made as of October 1, 2010 (the "Effective Date"), by 5900 Madison LLC, an Illinois limited liability company a ("Borrower"), whose address is 5000 West Roosevelt Road, Chicago, Illinois 60644, Stephen E. Barron, whose address is 5000 West Roosevelt Road, Chicago Illinois 60644, Mark B. Higginson, whose address is 5000 West Roosevelt Road, Chicago, Illinois 60644 (Stephen E. Barron and Mark B. Higginson are referred to collectively herein as "Guarantors"), and Bank of America, N.A., a national banking association, successor by merger to LaSalle Bank National Association and successor in interest to LaSalle Community Development Corporation ("Lender"), whose address is 135 S. LaSalle Street, Suite 1060, Chicago, IL 60603.

Factual Background

WHEREAS, Lender has made certain loans to Borrower pursuant to the terms of that certain Construction Loan Agreement dated September 21, 2006 by and between LaSalle Bank National Association and the Borrower, as amended by that certain First Amendment to Loan Documents and Intercreditor Agreement dated as of April 1, 2008 by and between LaSalle Bank National Association, LaSalle Community Development Corporation and the Borrower, as amended by that certain Second Amendment to Loan Documents dated April 1, 2008 by and between the Lender and the Borrower (the "Second Amendment") (as amended, renewed, replaced, supplemented, restated or otherwise modified from time to time, the "Senior Loan Agreement") and the other Loan Documents;

WHEREAS, LaSalle Community Development Corporation has also made certain loans to Borrower pursuant to that certain Construction Loan Agreement dated September 21, 2006 by and between LaSalle Community Development Corporation (now the Lender) and the Borrower, as amended by that certain First Amendment to Loan Documents and Intercreditor Agreement dated April 1, 2008 by and between LaSalle Bank National Association, LaSalle Community Development Corporation (now the Lender) and the Borrower, (as amended, renewed, replaced, supplemented, restated or otherwise modified from time to time, the "Subordinate Loan Agreement");

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WHEREAS, the loans made under the Senior Loan Agreement were evidenced by that certain Promissory Note dated September 21, 2006, executed and delivered by the Borrower and payable to LaSalle Bank National Association (now the Lender) in the original principal amount of One Million Four Thousand and 00/100 Dollars (\$1,400,000.00), as amended by that certain First Allonge to Promissory Note dated April 1, 2008, executed and delivered by the Borrower and payable to LaSalle Bank National Association, (as renewed, extended, replaced, supplemented, amended, restated or otherwise modified from time to time, the "Senior Note"). The Senior Note evidenced the Borrower's obligations to the Lender in connection with a loan in the original principal amount of One Million Four Hundred Thousand and 00/100 Dollars (\$1,400,000.00) (the "Senior Loan");

WHEREAS, the loans made under the Subordinate Loan Agreement were evidenced by that certain Promissory Note dated September 21, 2006, executed and delivered by the Borrower and payable to LaSalle Community Development Corporation in the original principal amount of One Hundred Twenty Seven Thousand Five Hundred and 00/100 Dollars (\$127,500.00), as amended by that certain First Allonge to Promissory Note dated April 1, 2008, executed and delivered by the Borrower and payable to LaSalle Community Development Corporation, (as renewed, extended, replaced, supplemented, amended, restated or otherwise modified from time to time, the "Subordinate Note"). The Subordinate Note evidenced the Borrower's obligations to the Lender in connection with a loan in the original principal amount of One Hundred Twenty Seven Thousand Five Hundred and 00/100 Dollars (\$127,500.00).

WHEREAS, LaSalle Community Development Corporation has assigned and transferred the Subordinate Loan Agreement, and all other documents evidencing and/or securing the Subordinate Loan (collectively, the "Subordinate Loan Documents") to Lender and Lender has acquired the Senior Loan Agreement and all other documents evidencing and/or securing the Senior Loan (collectively, the "Senior Loan Documents") through a merger with LaSalle Bank National Association;

WHEREAS, the Senior Note and the Subordinate Note were amended, restated and consolidated into one loan by that certain Amended, Restated and Consolidated Promissory Note dated April 1, 2009, executed and delivered by the Borrower and payable to the Lender in the original principal amount of One Million Five Hundred Twenty Seven Thousand Five Hundred and 00/100 Dollars (\$1,527,500.00), (as renewed, extended, replaced, supplemented, amended, restated or otherwise modified from time to time, the "Consolidated Note"). The Consolidated Note evidences the Borrower's consolidated obligations to the Lender in connection with the loan in the original principal amount of One Million Five Hundred Twenty Seven Thousand Five Hundred and 00/100 Dollars (\$1,527,500.00) (the "Loan");

WHEREAS, pursuant to the Second Amendment, the terms and conditions of the Senior Loan Agreement govern all aspects of the Loan;

WHEREAS, pursuant to the terms of the Consolidated Note, the Loan matured on October 1, 2010;

WHEREAS, the Borrower's obligations under the Loan Documents are secured by, among other things, that certain Construction Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated September 21, 2006, from the Borrower to LaSalle Bank National Association recorded in the Office of the Cook County Recorder of Deeds at Document No. 0627017119, as amended by that certain First Amendment to Recorded Documents dated April 1, 2008, from the Borrower to LaSalle Bank National Association and LaSalle Community Development Corporation, as amended by that certain Second Amendment to Recorded Documents dated April 1, 2009, from the Borrower to the Lender (as amended, supplemented, replaced, restated, renewed, extended or otherwise modified from time to time, the "Senior Mortgage"), which Senior Mortgage encumbers the real property legally described

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on Exhibit "A" attached hereto, covering certain real property and improvements thereon, more particularly described therein (the "Property")

WHEREAS, the Borrower's obligations under the Loan Documents are further secured by, among other things, that certain Junior Construction Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated September 21, 2006, from the Borrower to LaSalle Community Development Corporation recorded in the Office of the Cook County Recorder of Deeds at Document No. 0627017121, as amended by that certain First Amendment to Recorded Documents dated April 1, 2008, from the Borrower to LaSalle Bank National Association and LaSalle Community Development Corporation, as amended by that certain Second Amendment to Recorded Documents dated April 1, 2009, from the Borrower to the Lender (as amended, supplemented, replaced, restated, renewed, extended or otherwise modified from time to time, the "Subordinate Mortgage"), which Subordinate Mortgage encumbers the real Property. (The Senior Mortgage and the Subordinate Mortgage are referred to collectively herein as the "Mortgage");

WHEREAS, the Borrower's obligations under the Loan Documents are further secured by, among other things, that certain Assignment of Rents and Leases dated September 21, 2006, from the Borrower to LaSalle Bank National Association (now the Lender) recorded in the Office of the Cook County Recorder of Deeds as Document No. 0627017120;

WHEREAS, the Borrower's obligations under the Loan Documents are further secured by, among other things, that certain Assignment of Rents and Leases dated September 21, 2006, from the Borrower to LaSalle Community Development Corporation (now the Lender) recorded in the Office of the Cook County Recorder of Deeds as Document No. 0627017122;

WHEREAS, the Borrower's obligations under the Loan Documents are further secured by that certain Environmental Indemnity Agreement dated September 21, 2006, executed by the Borrower and the Guarantors to and for the benefit of LaSalle Bank National Association (now the Lender);

WHEREAS, the Borrower's obligations under the Consolidated Note and other Loan Documents (hereinafter defined) are guaranteed by the Guarantors pursuant to that certain Guaranty of Payment and Completion dated September 21, 2006 executed by the Guarantors to and for the benefit of LaSalle Bank National Association (now the Lender) (whether one or more, and as amended, extended, replaced, supplemented, restated, renewed or otherwise modified from time to time, the "Guaranty");

WHEREAS, the Borrower's obligations under the Consolidated Note and the other Loan Documents are hereinafter collectively referred to as the "Obligations"; the Consolidated Note, the Mortgage, the Senior Loan Agreement, the Guaranty, this Agreement, and all other documents previously, now or hereafter executed and delivered to evidence, secure, guarantee, or in connection with, the Loan, as the same may from time to time be renewed, extended, replaced, amended, supplemented, restated or otherwise modified, are hereinafter collectively referred to as the "Loan Documents"; and all liens, security interests, assignments, superior titles, rights, remedies, powers, equities and priorities securing the Consolidated Note or providing recourse to Lender with respect thereto are hereinafter collectively called the "Liens"; and

WHEREAS, Borrower and Lender now wish to, among other things, modify the interest rate of the Loan and to extend the Maturity Date of the Loan, as set forth below. All capitalized terms not defined herein shall have the meaning ascribed to such term in the Loan Documents.

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Agreement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, Guarantors and the Lender now agree as follows.

1. Modification of Loan Documents. The Loan Documents are hereby amended as follows:

- (a) Current Principal Balance. The outstanding principal balance of the Loan is \$273,494.48. There is no remaining availability under the Loan and no further funding of any loans shall be made under the Loan Agreement following the date hereof.
- (b) Extended Maturity Date. The Maturity Date of the Loan is extended from October 1, 2010 to October 1, 2012. All sums owing on the Loan, including all outstanding principal, accrued and unpaid interest, outstanding late charges, unpaid fees, and all other amounts outstanding under the Consolidated Note and the other Loan Documents, shall be due and payable no later than this extended Maturity Date.
- (c) Interest Payments. Accrued and unpaid interest as of the first day of each month shall be due and payable by Borrower at the rate(s) and in accordance with the terms set forth herein, in arrears on the tenth (10) day of each month commencing on October 10, 2010 until the Loan is repaid in full.
- (d) Principal Payments. In addition to payments of interest, commencing on June ____, 2011 and continuing on the tenth day of each month thereafter until the Loan is paid in full, Borrower shall make equal monthly principal payments equal to \$1,850.00 each.
- (e) Appraisal. The Lender reserves the right and privilege to order an appraisal of the Property at any time. Any appraisal shall be satisfactory and addressed to the Lender and prepared by a certified or licensed appraiser who is approved by the Lender, and all cost and expense for any appraisal shall be paid by Borrower or Guarantors, however, provided that no Event of Default has occurred and is then continuing, Borrower or Guarantors shall pay all cost and expense for any appraisal no more than once per fiscal year.
- (f) Secured Obligations. The Mortgage shall continue to secure payment and performance by Borrower of all obligations under the Consolidated Note, this Agreement, the Senior Loan Agreement and the other Loan Documents, in addition to all other Obligations. Notwithstanding the foregoing, certain obligations continue to be excluded from the secured Obligations, as provided in the Mortgage.

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- (g) Exhibit E. Exhibit E to the Senior Loan Agreement, as has been previously amended, is hereby replaced in its entirety with the document attached hereto as Exhibit B.
- (h) Events of Default. Any Event of Default under any of the Loan Documents is an Event of Default under all of the Loan Documents.
- (i) Debt Service Coverage Ratio. As of each Determination Date, Borrower shall maintain a Debt Service Coverage Ratio (as hereinafter defined) of at least 1.25 to 1.00. Lender may test the Debt Service Coverage Ratio once per fiscal year. As used herein, the following terms shall have the meanings as indicated below:

“Assumed Interest Rate” means seven percent (7.0%) per annum.

“Condemnation” means any taking of title to, use of, or any other interest in the Property under the exercise of the power of condemnation or eminent domain, whether temporarily or permanently, by any Governmental Authority or by any other Person acting under or for the benefit of a Governmental Authority.

“Condemnation Awards” means any and all judgments, awards of damages (including severance and consequential damages), payments, proceeds, settlements, amounts paid for a taking in lieu of Condemnation, or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, or in connection with, any Condemnation or threatened Condemnation.

“Debt Service” means the payments of principal and interest that would have been payable for one year under a hypothetical loan assuming (i) an initial loan balance equal to the Net Commitment Amount as of the Determination Date, (ii) an interest rate equal to the Assumed Interest Rate, and (iii) monthly amortization of the aggregate principal indebtedness over a thirty (30) year period.

“Debt Service Coverage Ratio” means, as of any Determination Date, the ratio, as determined by Lender, of Net Operating Income to Debt Service.

“Determination Date” means any date as of which Lender makes a determination regarding Borrower’s satisfaction or failure to satisfy the Debt Service Coverage Ratio as described herein.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, service, district or other instrumentality of any governmental entity.

“Insurance Proceeds” means the insurance claims under and the proceeds of any and all policies of insurance covering the Property or any part thereof, including all returned and unearned premiums with respect to any insurance relating to such Property, in each case whether now or hereafter existing or arising.

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“Net Commitment Amount” means, as of any given date, the amount of the outstanding principal balance of the Loan.

“Net Operating Income” means, with respect to any Determination Date, the amount obtained by subtracting the (i) total of Operating Expenses reported in Borrower’s most recent year-end financial statement for the then ended year from (ii) Operating Revenue as such amount may be adjusted by Lender in its reasonable discretion based on Lender’s underwriting standards, including adjustments for vacancy allowance and other concessions. As used herein, “vacancy allowance” means an allowance for reductions in potential income attributable to vacancies, tenant turnover, and nonpayment of rent. For purposes of this section, “Operating Revenue” shall mean the rental income payable to Borrower for the months in which the Determination Date occurs as stated on the Borrower’s rent roll most recently delivered to Lender for the Property, excluding any rent listed on such rent roll for any person or entity not then a tenant in the Property, multiplied by twelve (12), as adjusted aforesaid.

“Operating Expenses” means, with respect to any period of time, the total of all expenses actually paid or payable, computed on an annualized basis in accordance with generally accepted accounting principles, of whatever kind relating to the ownership, operation, maintenance or management of the Property, including utilities, ordinary repairs and maintenance, insurance premiums, ground rents, if any, license fees, Taxes, advertising expenses, payroll and related taxes, management fees actually paid under any management agreement, operational equipment or other lease payments as approved by Lender, and capital reserve payments or deposits, but specifically excluding depreciation and amortization, income taxes, debt service on the Loan, and any item of expense that would otherwise be covered by the provisions hereof but which is paid by any tenant under such tenant’s Lease or other agreement. Operating Expenses shall be subject to appropriate seasonal and other adjustments in Lender’s reasonable discretion. Any expense which in accordance with accrual basis income tax accounting is depreciated or amortized over a period which exceeds one (1) year shall be treated as an expense, for the purposes of the foregoing calculations, ratably over the period of depreciation or amortization.

“Person” means an individual, a corporation, a partnership, a joint venture, a limited liability company, a trust, an unincorporated association, any Governmental Authority or any other entity.

“Rents” means all of the rents, royalties, issues, profits, revenues, earnings, income and other benefits of the Property or any part thereof, or arising from the use or enjoyment of the Property or any part thereof, including all such amounts paid under or arising from any of the leases and all fees, charges, accounts or other payments for the use or occupancy of rooms or other public facilities within the Property or any part thereof.

“Taxes” means all taxes and assessments whether general or special, ordinary or

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extraordinary, or foreseen or unforeseen, which at any time may be assessed, levied, confirmed or imposed by any Governmental Authority or any communities facilities or other private district on Borrower or on any of its properties or assets or any part thereof or in respect of any of its franchises, businesses, income or profits.

In the event that Borrower is not in compliance with the Debt Service Coverage Ratio set forth above, Borrower shall, within ten (10) days of its receipt of Lender's notice of such non-compliance, either: (1) make a prepayment of principal towards the Consolidated Loan, in accordance with the conditions set forth in Section 3.1(iv) of the Consolidated Note, in an amount sufficient to ensure that the Debt Service Coverage Ratio as of the date of such prepayment then meets or exceeds the required ratio; or (2) open an interest-bearing blocked account ("Reserve Account") with the Lender (if not previously opened for this purpose) and deposit therein an amount equal to such amount that would have been required as a prepayment under clause (1) above. Upon Borrower making such prepayment or deposit, Lender shall be deemed to have waived the default caused by such non-compliance. The Borrower hereby grants to Lender a security interest in the Reserve Account and all money at any time deposited therein or credited thereto for the purpose of securing the unpaid Obligations. In the event Lender tests the Debt Service Coverage Ratio again, and Borrower is not then in compliance with the Debt Service Coverage Ratio, Borrower again shall make a prepayment or deposit in accordance with clauses (1) and (2) above within ten (10) days of its receipt of Lender's notice of such non-compliance.

Upon the occurrence of an Event of Default, Lender may debit the Reserve Account for such amounts as it may desire to apply towards the outstanding Obligations. In connection with the payment of any other charges or amounts due by Borrower, Lender may at any time, and regardless of whether or not an Event of Default then exists, debit the Reserve Account for such amounts due. Should Lender debit the Reserve Account as aforesaid, Borrower shall promptly deposit into the Reserve Account an amount equal to the amount of such debit. As long as any part of the Obligations are outstanding, Borrower shall not have access to the Reserve Account.

(j) Borrower Reporting Requirements.

Section 8.7 of the Senior Loan Agreement is hereby replaced with the following:

8.7F Furnishing Information. Borrower will:

- (a) Furnish or cause to be furnished to Lender financial statements, including balance sheet and income statements for Borrower, each Guarantor and Premises at the Lender's discretion;
- (b) Furnish or cause to be furnished to Lender a certified sales report for the Project as of the day requested at the Lender's discretion;
- (c) At the request of Lender, furnish updated twelve (12) month cash flow projections concerning such matters as Lender may require, prepared and

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certified by Borrower's chief financial officer;

- (d) Promptly notify Lender of any condition or event which constitutes (or which, with the giving of notice or lapse of time, or both, would constitute) an Event of Default, and of any material adverse change in the financial condition of Borrower or any Guarantor;
 - (e) Maintain a standard and modern system of accounting in accordance with generally accepted accounting principles consistently applied;
 - (f) Permit Lender, Lender's Consultant or any of their agents or representatives to have access to and to examine all books and records regarding the Premises at any time or times hereafter during business hours; and
 - (g) Permit Lender or Lender's Consultant to copy and make abstracts from any and all of said books and records.
- (k) Guarantor Reporting Requirements.

Section 9 of the Guaranty is hereby replaced with the following:

Each of the Guarantors represents and warrants to the Lender that (a) the financial statements of such Guarantor previously submitted to the Lender are true, complete and correct in all material respects, disclose all actual and contingent liabilities, and fairly present the financial condition of such Guarantor, and do not contain any untrue statement of a material fact or omit to state a fact material to the financial statements submitted or this Guaranty, and (b) no material adverse change has occurred in the financial statements from the dates thereof until the date hereof. Each of the entity Guarantors covenants and agrees to furnish to the Lender or its authorized representatives information regarding the business affairs, operations and financial condition of such Guarantor, including, but not limited to annual financial statements, including balance sheet and income statements as the Lender may request at the Lender's discretion.

2. Conditions Precedent. This Agreement shall become effective as of the Effective Date, so long as all of the following conditions precedent have been satisfied at Borrower's sole cost and expense in a manner acceptable to Lender in the exercise of Lender's sole and absolute judgment:

- (a) Lender shall have received fully executed and, where appropriate, acknowledged originals of this Agreement and any other documents which Lender may require or request in accordance with this Agreement or the other Loan Documents.
- (b) Lender shall have received reimbursement, in immediately available funds, of all costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, charges for title insurance (including endorsements), recording, filing and escrow charges, fees for appraisal,

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architectural and engineering review, construction services and environmental services, mortgage taxes, and legal fees and expenses of Lender's counsel, including the allocated costs for services of in-house counsel. Such costs and expenses may include the allocated costs for services of Lender's in-house appraisal and/or environmental services staffs. Borrower acknowledges that the extension fee payable in connection with this transaction does not include the amounts payable by Borrower under this subsection.

- (c) Lender shall have received payment, in immediately available funds, of all commitment, modification, amendment and/or extension fees that Lender may have imposed in connection with this Agreement and the transactions contemplated hereby.
- (d) Lender shall have received, in accordance with Article 11.01(a) of the Declaration of Condominium Ownership and of Easements, Restricts, Covenants and By-Laws for the 5900 Madison Condominiums Condominium and the The 5900 Madison Condominiums Condominium Association (the "Declaration"), written notice that Borrower has no uncured obligations under the Declaration, or, in the event that there are uncured obligations under the Declaration, a listing of what obligations remain uncured, and all such uncured obligations shall be cured.

3. Borrower's Representations and Warranties. Borrower hereby unconditionally ratifies and confirms, renews and reaffirms to Lender all of the representations and warranties set forth in the Loan Documents and further represents and warrants that: (a) the recitals set forth above in the Factual Background are true, accurate and correct; (b) Borrower is the sole legal and beneficial owner of the Property; (c) the execution and delivery of this Agreement do not contravene, result in a breach of, or constitute a default under, any mortgage, deed of trust or similar security instrument, loan agreement, indenture or other contract or agreement to which Borrower is a party or by which Borrower or any of its properties may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and do not violate or contravene any law, order, decree, rule, regulation or restriction to which Borrower or the Property is subject; (d) this Agreement constitutes the legal, valid and binding obligation of Borrower enforceable in accordance with its terms; (e) the execution and delivery of, and performance under, this Agreement are within Borrower's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite action, and is not in contravention of any of Borrower's Articles of Organization or operating agreement, or of any indenture, agreement or undertaking to which Borrower is a party or by which it is bound; (f) there exists no default under the Consolidated Note or any other Loan Document; other than failure to pay at the original maturity date; and (g) there are no offsets, claims, counterclaims, cross-claims or defenses with respect to the Loan. Borrower further represents and warrants that, except as previously disclosed in writing to Lender, there is no suit, judicial or administrative action, claim, investigation, inquiry, proceeding or demand pending (or, to Borrower's knowledge, threatened) (i) against Borrower, Guarantors, or any other person liable directly or indirectly for the Loan, or (ii) which affects the Property or Borrower's title to the Property, or (iii) which affects the validity, enforceability or priority of any of the Loan Documents.

- 5. Borrowing Entity. Borrower hereby represents and warrants: (a) Borrower is a

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limited liability company organized under the laws of the State of Illinois; (b) Borrower is and will continue to be (i) duly organized, validly existing and in good standing under the laws of its state of organization, (ii) authorized to do business and in good standing in each state in which the Property is located, and (iii) possessed of all requisite power and authority to carry on its business and to own and operate the Property; (c) there have been no changes in the organization, composition, ownership structure or formation documents of Borrower since the inception of the Consolidated Loan; (d) Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording, including software, writings, plans, specifications and schematics concerning the Property, will continue to be 5000 West Roosevelt Road, Chicago, Illinois 60644, unless Borrower notifies Lender of any change in writing at least thirty (30) days prior to the date of such change; (e) Borrower's organizational identification number, if any, assigned by the state of incorporation or organization is 20-5132493; and (f) Borrower's exact legal name is set forth in the first paragraph of this Agreement. Borrower will not cause or permit any change to be made in its name, identity (including its trade name or names), or corporate, partnership or limited liability structure unless Borrower shall have notified Lender in writing of such change at least thirty (30) days prior to the effective date of such change, and shall have first taken all action required by Lender for the purpose of further perfecting or protecting the lien and security interest of Lender in the Property. In addition, Borrower shall not change its corporate, partnership or limited liability structure without first obtaining the prior written consent of Lender. Borrower shall promptly notify Lender of any change in its organizational identification number. If Borrower does not now have an organizational identification number and later obtains one, Borrower shall promptly notify Lender of such organizational identification number.

6. Reaffirmation; No Impairment; No Novation. Borrower hereby unconditionally ratifies and confirms, renews and reaffirms to Lender all of its obligations under the Consolidated Note, Senior Loan Agreement, Mortgage and other Loan Documents and Borrower acknowledges and agrees that such obligations remain in full force and effect, binding and enforceable against it in accordance with the terms and conditions of the Loan Documents, as expressly modified by this Agreement, without impairment and Borrower remains unconditionally liable to Lender in accordance with the terms, covenants and conditions of the Consolidated Note, Senior Loan Agreement, Mortgage and other Loan Documents and Borrower hereby acknowledges and confirms that it effectively executed the Loan Documents. Except as specifically hereby amended, the Loan Documents shall each remain unaffected by this Agreement and all such documents shall remain in full force and effect. This Agreement shall not be construed as a substitution or novation of the indebtedness evidenced by the Consolidated Note, which shall remain in full force and effect. Nothing in this Agreement shall impair the lien of the Mortgage, which shall remain one mortgage with one power of sale, creating a first lien encumbering the Property.

7. Course of Dealing. The Lender and Borrower and Guarantors hereby acknowledge and agree that at no time shall any prior or subsequent course of conduct by Borrower or Lender directly or indirectly limit, impair or otherwise adversely affect any of Lender's rights, interests or remedies in connection with the Consolidated Loan and the Loan Documents or obligate Lender to agree to, or to negotiate or consider an agreement to, any waiver of any obligation or default by Borrower under any Loan Document or any amendment to

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any term or condition of any Loan Document.

8. Integration. The Loan Documents, including this Agreement: (a) integrate all the terms, provisions, covenants and conditions mentioned in or incidental to the Loan Documents; (b) supersede all oral negotiations and prior and other writings with respect to their subject matter; and (c) are intended by the parties as the final expression of the agreement with respect to the terms, provisions, covenants and conditions set forth in those documents and as the complete and exclusive statement of the terms agreed to by the parties. If there is any conflict between the terms, provisions, covenants and conditions of this Agreement and those of any other agreement or instrument, including any of the other Loan Documents, the terms, provisions, covenants and conditions of this Agreement shall prevail. This Agreement may not be modified, amended, waived, changed or terminated orally, but only by an agreement signed by the party against whom the enforcement of the modification, amendment, waiver, change or termination is sought.

9. Reaffirmation of Guaranty. Each Guarantor, by signature below as such, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, hereby consents to and joins in this Agreement and hereby unconditionally ratifies and confirms to Lender that all of the terms, covenants, indemnifications, guarantees and provisions of the Guaranty and any other Loan Document that Guarantor is a party to is and shall remain in full force and effect, without change, except as otherwise expressly and specifically modified by this Agreement, for the benefit of Lender with respect to the Obligations. Each Guarantor acknowledges and agrees that there are no offsets, claims, counterclaims, cross-claims or defenses of the Guarantor with respect to the Guaranty and any other Loan Document that Guarantor is a party to nor, to Guarantor's knowledge, with respect to the Obligations, that the Guaranty and any other Loan Document that Guarantor is a party to is not released, diminished or impaired in any way by this Agreement or the transactions contemplated hereby, and that the Guaranty and any other Loan Document that Guarantor is a party to is hereby ratified and confirmed in all respects. Each Guarantor hereby unconditionally ratifies and confirms, renews and reaffirms all of the representations and warranties set forth in the Guaranty and any other Loan Document that Guarantor is a party to. Each Guarantor acknowledges that without this consent and reaffirmation, the Lender would not execute this Agreement or otherwise consent to its terms. Each Guarantor represents, warrants and covenants that it has the full power, authority and legal right to execute this Agreement and to keep and observe all of the terms of this Agreement on its part to be observed and performed. Guarantor acknowledges and agrees that nothing contained herein shall be construed to relieve Guarantor from its obligations under the Guaranty and any other Loan Document to which it is a party.

10. Release of Claims. The Borrower and the Guarantor, for themselves and for each of their respective heirs, personal representatives, successors and assigns, hereby release and waive all claims and/or defenses they now or hereafter may have against the Lender and its successors and assigns on account of any occurrence relating to the Loan, the Loan Documents and/or the Property which accrued prior to the date hereof. This release and waiver shall be effective as of the date of this Agreement and shall be binding upon the Borrower and the Guarantor and each of their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of the Lender and its successors and assigns. The term "Lender" as used herein shall include, but shall not be limited to, its present and former officers, directors, employees, agents and attorneys.

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11. USA Patriot Act Notice. Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow Lender to identify Borrower in accordance with the Act.

12. Miscellaneous. This Agreement and any attached consents or exhibits requiring signatures may be executed in counterparts, and all counterparts shall constitute but one and the same document. If any court of competent jurisdiction determines any provision of this Agreement or any of the other Loan Documents to be invalid, illegal or unenforceable, that portion shall be deemed severed from the rest, which shall remain in full force and effect as though the invalid, illegal or unenforceable portion had never been a part of the Loan Documents. In the event of any conflict or inconsistency between this Agreement and the provisions of any of the other Loan Documents, the provisions of this Agreement shall control. This Agreement shall be governed by the laws of the State/Commonwealth of Illinois, without regard to the choice of law rules of that State. As used herein, the word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." This Agreement shall form a part of each Loan Document and all references to a given Loan Document shall mean that document as hereby modified, if applicable. This Agreement shall be binding upon and inure to the benefit of Borrower, Guarantors, Lender and their respective successors and permitted assigns.

[SIGNATURE PAGE FOLLOWS]

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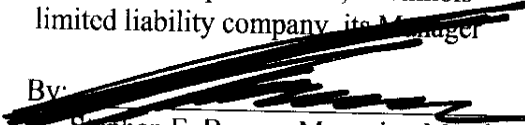
[SIGNATURE PAGE TO THIRD MODIFICATION AGREEMENT]

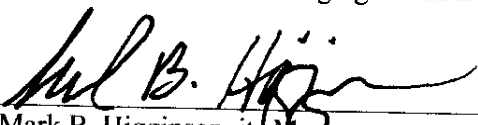
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement under seal as of the day and year first hereinabove written.

BORROWER:

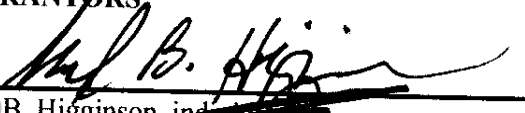
5900 Madison LLC, an Illinois Limited Liability Company

By: Barron Development LLC, an Illinois limited liability company, its Manager

By: 
Stephen E. Barron, Managing Member

By: 
Mark B. Higginson, its Manager

GUARANTORS:


Mark B. Higginson, individually


Stephen E. Barron, individually

LENDER:

Bank of America, N.A.

By: _____
Name:
Title:

UNOFFICIAL COPY

[SIGNATURE PAGE TO THIRD MODIFICATION AGREEMENT]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement under seal as of the day and year first hereinabove written.

BORROWER:

5900 Madison LLC, an Illinois Limited Liability Company

By: Barron Development LLC, an Illinois limited liability company, its Manager

By: _____
Stephen E. Barron, Managing Member

By: _____
Mark B. Higginson, its Manager

GUARANTORS:

Mark B. Higginson, individually

Stephen E. Barron, individually

LENDER:

Bank of America, N.A.

By: Katherine Dzedzic
Name: KATHERINE DZIEDZIC
Title: VP

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Federal law requires Bank of America, N.A. (the "Bank") to provide the following two notices. The notices are not part of the foregoing agreement or instrument and may not be altered. Please read the notices carefully.

These notices apply only to individual Borrowers or Guarantors and individuals who are pledging collateral, granting a lien on real property or are otherwise obligated to the Bank ("Obligors"):

(1) AFFILIATE SHARING NOTICE

From time to time the Bank may share information about the Obligor's experience with Bank of America Corporation (or any successor company) and its subsidiaries and affiliated companies (the "Affiliates"), including, but not limited to, the Bank of America Companies listed in notice #2 below. The Bank may also share with the Affiliates credit-related information contained in any applications, from credit reports and information it may obtain about the Obligor from outside sources.

If the Obligor is an individual, the Obligor may instruct the Bank not to share this information with the Affiliates. The Obligor can make this election by (1) calling the Bank at 1.888.341.5000, (2) visiting the Bank online at www.bankofamerica.com, selecting "Privacy & Security," and then selecting "Set Your Privacy Preferences," or (3) contacting the Obligor's client manager or local banking center. To help the Bank complete the Obligor's request, the Obligor should include the Obligor's name, address, phone number, account number(s) and social security number.

If the Obligor makes this election, certain products or services may not be made available to the Obligor. This request will apply to information from applications, consumer reports and other outside sources only. Through the normal course of doing business, including servicing the Obligor's accounts and better serving the Obligor's financial needs, the Bank will continue to share transaction and account experience information, as well as other general information among the Affiliates.

(2) AFFILIATE MARKETING NOTICE – YOUR CHOICE TO LIMIT MARKETING

- The Bank of America companies listed below are providing this notice #2.
- Federal law gives you the right to limit some but not all marketing from all the Bank of America affiliated companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from all the Bank of America affiliated companies.
- You may limit all the Bank of America affiliated companies, such as the banking, loan, credit card, insurance and securities companies, from marketing their products or services to you based upon your personal information that they receive from other Bank of America companies. This information includes your income, your account history, and your credit score.

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- Your choice to limit marketing offers from all the Bank of America affiliated companies will apply for at least 5 years from when you tell us your choice. Before your choice to limit marketing expires, you will receive a renewal notice that will allow you to continue to limit marketing offers from all the Bank of America affiliated companies for at least another 5 years.
- You may tell us your choice to limit marketing offers and you may tell us the choices for other customers who are joint account holders with you.
- This limitation will not apply in certain circumstances, such as when you have an account or service relationship with the Bank of America company that is marketing to you.
- For individuals with business purpose accounts, this limitation will only apply to marketing to individuals and not marketing to a business.

To limit marketing offers, contact us at 800.282.2884

Bank of America Companies:

This notice applies to all Bank of America entities that utilize the names:

Balboa
Banc of America
Bank of America
Merrill Lynch
US Trust

These entities include banks and trust companies; credit card companies; brokerage and investment companies; insurance and annuities companies; and real estate companies. In addition, this notice applies to the following Bank of America companies:

Fleet Credit Card Services, LP
BACAP Alternative Advisors, Inc.
UST Securities Corp.
White Ridge Investment Advisors LLC
Equity Margins Limited
FAM Distributors, Inc.
ML Private Finance, LLC
Financial Data Services Inc.
IQ Investment Advisors Family of Funds
IQ Investment Advisors LLC
Managed Account Advisors LLC
The Princeton Retirement Group, Inc.
Roszel Advisors, LLC
First Franklin Financial Corporation

GPC Securities, Inc.
BA Insurance Services, Inc.
Countrywide Insurance Services, Inc.,
dba in New York: CW Insurance Agency
Countrywide Insurance Services of Arizona,
Inc.
Directnet Insurance Agency, Inc.
General Fidelity Insurance Company
General Fidelity Life Insurance Company
Meridian Insurance Company
Newport E & S Insurance Company
Newport Insurance Company
BAC Home Loans Servicing, LP
Countrywide Mortgage Ventures, LLC
KB Home Mortgage, LLC
NationsCredit Financial Services Corporation
Home Loan Services, Inc.
Wilshire Credit Corporation
BA Merchant Services, LLC
BAL Corporate Aviation, LLC
BAL Energy Holding, LLC
BAL Energy Management, LLC
BAL Investment & Advisory, Inc.
BAL Solar I, LLC
BAL Solar II, LLC
BAL Solar III, LLC
BAPCC II, LLC
Pydna Corp.

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EXHIBIT A

PARCEL 1:

UNIT 14-1 IN THE MAYFIELD VILLAGE CONDOMINIUM AS DELINEATED AND DEFINED ON THE SURVEY OF THE NORTH 61.00 FEET OF LOT 126 IN PRAIRIE AVENUE ADDITION TO AUSTIN IN THE SOUTHEAST $\frac{1}{4}$ OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0421939126, AS AMENDED FROM TIME TO TIME, TOGETHER WITH THEIR PERCENTAGE INTEREST IN THE COMMON ELEMENTS.

PARCEL 2:

LOT 126 (EXCEPT THE NORTH 61 FEET THEREOF) AND (EXCEPT UNITS SUBMITTED TO THE CONDOMINIUM ACT UNDER DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0730303073, AS AMENDED FROM TIME TO TIME, IN PRAIRIE AVENUE ADDITION TO AUSTIN THE SOUTHEAST $\frac{1}{4}$ OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

5900 West Madison

Chicago, IL

16-08-419-036-1002

16-08-419-037-0000