


PREPARED BY AND UPON RECORDING,
RETURN TO:


20100714000223020 1/6 \$30.00
Shelby Cnty Judge of Probate, AL
07/14/2010 10:26:37 AM FILED/CERT

CIT Lending Services Corporation
P.O. Box 1529
Livingston, New Jersey 07039-1529
Attention: Small Business Lending - Portfolio Administration Group
Account: 0117651-9651

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT (hereinafter referred to as the "Agreement") is made as of the 29 day of June, 2010 by and between CIT Lending Services Corporation, a Delaware corporation having a mailing address at P.O. Box 1529, Livingston, New Jersey 07039-1529, Attention: Small Business Lending - Portfolio Administration Group, and its successors and/or assigns (hereinafter referred to as "CIT"), and 3Kids, Inc. having an address at 2154 Cameron Circle Birmingham, AL 35242 (hereinafter referred to as the "Borrower").

WITNESSETH:

WHEREAS, Borrower has executed and delivered to CIT a Promissory Note dated June 22, 2009 in the original principal amount of \$477,000.00 (the "Note"); and

WHEREAS, the Note is secured by a certain Mortgage and Security Agreement ("Mortgage") dated June 22, 2009 which was executed by the Borrower, recorded as document 20090625000244350 by the Shelby County Judge of Probate, Shelby County, Alabama; an Assignment of Leases and Rents ("Assignment") dated June 22, 2009 which was executed by the Borrower, recorded as document 20090625000244360 by the Shelby County Judge of Probate, Shelby County, Alabama; a Uniform Commercial Code Financing Statement, dated June 24, 2009 covering the equipment and property described more fully therein (the "Security Agreement") and which Uniform Commercial Code Financing Statement(s) were filed for record as document 20090624000244130 by the Shelby County Judge of Probate, Shelby County, Alabama; a Uniform Commercial Code Financing Statement, dated April 22, 2009 covering the equipment and property described more fully therein (the "Security Agreement") and which Uniform Commercial Code Financing Statement(s) were filed for record as document 09-0186009 by the Alabama Secretary of State; and a Security Agreement ("Security Agreement") dated June 22, 2009; and

WHEREAS, the Note, Mortgage, Assignment, Security Agreement, and any other document(s) executed and/or delivered by the Borrower, in connection therewith, are hereinafter called collectively, the "Loan Documents"; and

WHEREAS, David D. Wilson, Jr. and Kimberly K. Wilson (collectively, the "Guarantors"), each of whom was either financially interested in Borrower or sought to receive a material benefit from Borrower, either directly or indirectly, in exchange for their guaranties (as hereinafter defined) gave to CIT unconditional guaranties of the full and prompt payment of all obligations of Borrower to CIT dated June 22, 2009 (each, a "Guaranty" and collectively, the "Guarantees"); and

WHEREAS, CIT has disbursed \$377,000.00 to Borrower as of the date of this Agreement, and Borrower has determined that it does not need an additional \$100,000.00, which represents the balance of funds it initially requested; and

WHEREAS, Borrower, Guarantors and CIT now desire, as set forth below, to modify the terms and conditions of the Note and the other Loan Documents.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein contained, Debtor and CIT agree as follows:

1. The Loan Documents and Guarantees shall remain in full force and effect, except as modified by this Agreement. The Borrower and Guarantors hereby reaffirm all terms and conditions of all of the Loan Documents and Guarantees. This Agreement shall not create a novation of any term or condition of the Loan Documents or the Guarantees. Nothing contained herein shall impair, diminish, or lessen the effect, perfection, or priority of any lien or security interest held by CIT.

2. The Note is hereby amended as follows:

- a) The principal amount of the Note shall be \$377,000.00.
- b) Commencing August 1, 2010, and continuing on the 1st day of each month thereafter, until maturity, the Borrower shall make monthly principal and interest payments in the amount of \$2,605.00. If the rate of interest changes, as provided in the Note, monthly payments will be adjusted such that the Note will fully amortize in equal installments pursuant to the terms thereof.
- c) The entire balance of principal, Accrued interest, and any and all expenses of CIT SBLC remaining unpaid under the Notes shall become due and payable on July 1 2035.

3. The Mortgage and the Assignment are hereby amended to reflect the revision to the Note. All other terms and conditions of the Note and the other Loan Documents shall remain in full force and effect.

4. The original of this Agreement will be attached to the original Note, and this Agreement, when duly executed by all parties, shall constitute a "Modification" of the Note.

5. The Borrower and Guarantors, jointly and severally, represent and warrant to CIT that:

a) In the three months last past there has been no material adverse change in the financial condition of Borrower, or in the properties or business of Borrower on a consolidated basis or separately. Neither the business nor the properties of Borrower is or has been affected by any fire, explosion, accident, strike, lockout, or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy, or other casualty (whether or not covered by insurance) adversely affecting such business or properties.

b) This Agreement has been duly executed and constitutes the legal, valid and binding obligation of Borrower and Guarantors, enforceable against them in accordance with its terms.

c) The execution, delivery and performance of this Agreement and all related agreements and documents to which Borrower is a party are within Borrower's powers, will not, as applicable, (i) violate any provisions of any existing law, statute, rule, regulation or ordinance which violation

may have a material adverse effect upon the business or financial condition of Borrower, (ii) conflict with, result in a breach of, or constitute a default under, any mortgage, lease, contract or other agreement or undertaking to which Borrower is a party or by which Borrower or any of Borrower's properties or assets may be bound.

d) The Borrower is not in default in the payment or performance of any of Borrower's obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which Borrower is a party or by which Borrower or any of Borrower's properties or assets may be bound, and no default or event of default under any such mortgage, indenture, lease, contract or other agreement or undertaking has occurred and is continuing. Borrower is not in default under any order, award or decree of any court, arbitrator, or governmental authority binding or affecting it or by which any of Borrower's properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of Borrower to carry on Borrower's business as presently conducted or to perform Borrower's obligations under this Agreement.

6. Borrower and Guarantors hereby remise, release and forever discharge CIT, its parent and affiliated companies, and all of its and their respective officers, directors, employees, agents, attorneys and stockholders, of and from any and all manner of actions, causes and causes of action whatsoever, at law or in equity, and including, but not limited to, all claims relating to the Loan Documents, the Guarantees, and the relationships and activities of the Borrower and Guarantors, and CIT with respect to this Agreement and the Loan Documents and Guarantees from the beginning of the world to the date this Agreement is signed by the last party executing this Agreement.

7. Borrower and Guarantors hereby appoint CIT as its attorney-in-fact, coupled with an interest, with full authority to execute, seal and deliver such financing statements, extensions and modifications as CIT may require to perfect and continue the perfection of the liens and security interests granted in the Loan Documents and this Agreement, and for the purpose of carrying out the terms of the Loan Documents and this Agreement.

8. This Agreement and the Loan Documents, as modified by this Agreement, are not intended to benefit, modify, release or discharge any third party, and all rights as against persons or parties not a party to this Agreement are expressly reserved by CIT. Borrower and Guarantors hereby indemnify and hold CIT harmless from and against any claim, loss, damage, costs, charge or expense (including attorney's fees) whatsoever arising out of or relating to any claim by any third party not a party to this Agreement of any alleged or purported benefit, modification, release or discharge resulting from this Agreement or the Loan Documents.

9. This Agreement, and the Loan Documents shall be binding upon and inure to the benefit of CIT, the Borrower, Guarantors, all future holders of this Agreement and the Loan Documents, and their respective legal representatives, successors and assigns, except that the Borrower may not transfer or assign any of Borrower's rights under this Agreement or the Loan Documents.

10. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

11. This Agreement may only be modified in a writing signed by each party hereto. No failure on the part of CIT to exercise, and no delay in exercising, and no course of dealing with respect to, any right, power or remedy under this Agreement or the Loan Documents shall

operate as a waiver thereof; nor shall any single or partial exercise by CIT of any right, power or remedy under this Agreement or the Loan Documents preclude any other exercise thereof.

12. This Agreement (including any and all Exhibits and Schedules hereto) the Loan Documents, as modified herein, and the Guarantees constitute the entire agreement between the parties with respect to the subject matter addressed herein or therein.

13. Each of the parties hereto represents and declares that such party has carefully read this Agreement and the documents and instruments being entered into in connection herewith and that such party understands the contents thereof and signs the same freely and voluntarily. The parties hereto acknowledge that they have the opportunity to consult with legal counsel of his own choosing concerning this Agreement and related documents and instruments.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and sealed the day and year first above written.

CIT Lending Services Corporation

By: [Signature] DATE: 6/29/10
Name: Kathleen Hay
Title: Vice President, National Closing Manager

Borrower: 3Kids, Inc.

ATTEST/WITNESS:
Mary Ann Harvard

By: [Signature] DATE: 6-29-10
David D. Wilson, Jr., President

Guarantors:

WITNESS:
Mary Ann Harvard

By: [Signature] DATE: 6-29-10
David D. Wilson, Jr.

WITNESS:
Mary Ann Harvard

By: Kimberly K. Wilson DATE: 6-29-10
Kimberly K. Wilson

[Notary to Follow]



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STATE OF ALABAMA)
COUNTY OF)

I, the undersigned Notary Public in and for said County, in said state, hereby certify that **David D. Wilson, Jr.**, whose name as **President of 3Kids, Inc.**, an Alabama corporation, is signed to the foregoing Instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing Instrument, he executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 29 day of June, 2010.


NOTARY PUBLIC

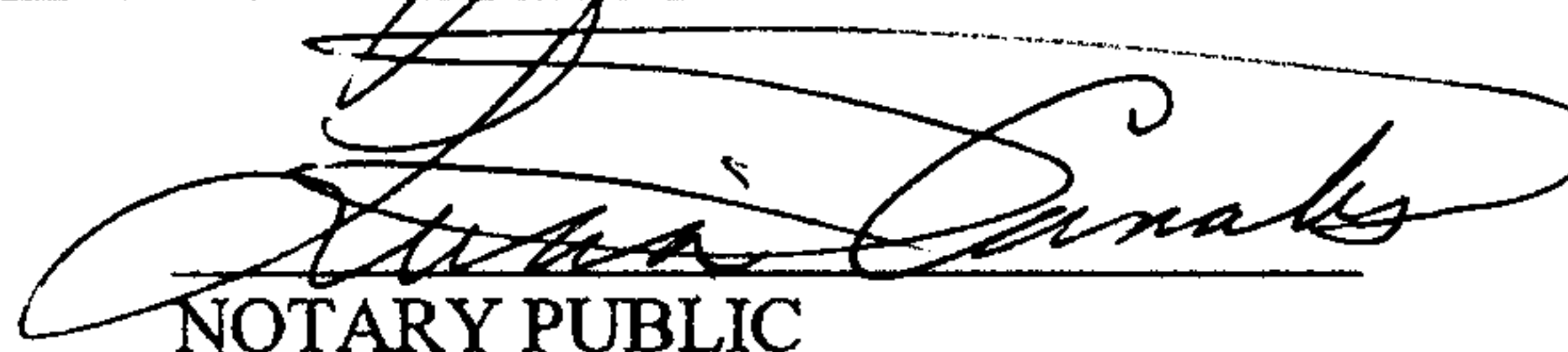
My Commission Expires: _____

STATE OF ALABAMA)
COUNTY OF)

MY COMMISSION EXPIRES AUGUST 17, 2013

I, the undersigned Notary Public in and for said County, in said state, hereby certify that **David D. Wilson, Jr.**, whose name is signed to the foregoing Instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing Instrument, he executed the same voluntarily.

Given under my hand and official seal this 29 day of June, 2010.


NOTARY PUBLIC

My Commission Expires: _____

MY COMMISSION EXPIRES AUGUST 17, 2013

STATE OF ALABAMA)
COUNTY OF)

I, the undersigned Notary Public in and for said County, in said state, hereby certify that **Kimberly K. Wilson**, whose name is signed to the foregoing Instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing Instrument, she executed the same voluntarily.

Given under my hand and official seal this 29th day of June, 2010.


NOTARY PUBLIC

My Commission Expires: _____

MY COMMISSION EXPIRES AUGUST 17, 2013



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COMPANY ACKNOWLEDGMENT

STATE OF New Jersey)
COUNTY OF Essex) SS:

On this 31st day of June, in the year 2010, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kathleen Hay, as Vice President of CIT Lending Services Corporation, and acknowledged under oath to my satisfaction that she is the person who executed the within instrument, that she was authorized to execute the within instrument on behalf of said company and that she executed said instrument as the voluntary act of the said company.

Maureen Kelly
Notary Public

Maureen Kelly
Printed

My Commission Expires:

5/20/2015

My County of Residence:

Bergen

MAUREEN KELLY
A Notary Public of New Jersey
My Commission Expires May 20, 2015



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