




# Tom Leatherwood

Shelby County Register

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<b>10097467</b>	
09/20/2010 - 03:32 PM	
7 PGS	
DEBBIES	777189-10097467
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	15.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	17.50
<b>TOTAL AMOUNT</b>	<b>34.50</b>
<b>TOM LEATHERWOOD</b>	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

THIRD AMENDMENT TO REAL PROPERTY LEASE AGREEMENT

THIS THIRD AMENDMENT TO REAL PROPERTY LEASE AGREEMENT (this "Amendment") is entered into as of January 22, 2010, by and among THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE, a public not-for-profit corporation of the State of Tennessee ("Lessor"), TIC PROPERTIES MANAGEMENT, LLC, a Virginia limited liability company, on behalf of and as agent for the tenant in common owners of the Building ("Lessee"), and EVERGREEN PACKAGING INC., a Delaware corporation ("Applicant").

RECITALS:

A. Lessor, Alladin Investment Partnership, a Tennessee limited partnership ("Alladin), and Applicant entered into a certain Real Property Lease Agreement dated December 31, 2007 and recorded in the Register's Office of Shelby County, Tennessee (the "Register's Office") as Instrument No. 07189571 (the "Original Lease Agreement") pursuant to which Alladin leased the Real Property and Improvements (as such terms are defined in the Original Lease Agreement) from Lessor and a First Amendment thereto dated April 11, 2008 and recorded in the Register's Office as Instrument Number 08050721 (the "First Amendment") and a Second Amendment thereto also dated April 11, 2008 and recorded in the Register's Office as Instrument number 08050722 (the "Second Amendment" and, together with the Original Lease Agreement, and First Amendment the "Lease Agreement").

B. Applicant, in connection with its joinder to the Lease Agreement, obtained approval with respect to its Application (as defined in the Lease Agreement) for payments in lieu of taxes with respect to the Project (as defined in the Lease Agreement), which Project is the subject of a sublease by Applicant from Lessee under a separate lease agreement between Lessee and Applicant dated August 6, 2007 (the "Evergreen Sublease").

C. On April 11, 2008, Alladin, with the permission of the Lessor, assigned its interest in the Lease Agreement to Lessee. This assignment was recorded in the Register's Office as Instrument Number 08050723.

D. Lessee and Applicant have further agreed, subject to the satisfaction of various conditions thereto, to expand the space leased under the Evergreen Sublease to include an additional 5,073 square feet of space and Applicant has requested that the Project Area, as defined in the Lease Agreement, be expanded to include such additional space under the Lease Agreement.

E. Lessor, Lessee and Applicant desire to amend the Lease Agreement upon the terms and conditions set forth herein to incorporate the additional square feet of space to be occupied under the Evergreen Sublease into the Project Area.

AGREEMENT:

NOW THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor, Lessee and Applicant hereby agree as follows:

I. Lessor, Lessee and Applicant hereby acknowledge that the expansion space being

taken by the Applicant under the Evergreen Sublease is an additional 5,073 square feet, making the portion of the total rentable square footage of the Demised Premises occupied by the Applicant to be 23,545 square feet and the percentage of the total Demised Premises occupied by Applicant to be 14.28% (23,545 square feet divided by total building square footage of 164,873). The Improvements required to be constructed in connection with the expansion space will be completed in accordance with the terms of the Evergreen Sublease. Lessor acknowledges and agrees that for purposes of the Lease Agreement the expansion space is deemed to constitute part of the Project Area as if Applicant had leased the expansion space from the commencement of the Lease Agreement.

II. Section 6.02(a) of the Lease Agreement is hereby modified and amended by deleting it in its entirety and inserting therefor the following:

Section 6.02. Payments in Lieu of Taxes.

(a) Each year during the Term hereof, Lessee shall make PILOT payments as Additional Rent, in lieu of Memphis and Shelby County ad valorem taxes, in amounts computed as indicated below, in lieu of such taxes that otherwise would have been due and payable with regard to the Demised Premises, which consists of tax parcel number 0056-039-00029, were it owned by a tax-paying entity and subject to such taxation:

<u>Period</u>	<u>Basis of Computation</u> <u>Proportion of Taxes</u> <u>Otherwise Due and Payable</u>
Until the sixth (6th) anniversary of the date hereof (December 31, 2013)	<p><b>As to the PILOT payment in lieu of Shelby County taxes</b></p> <p>(a) With respect to the Evergreen Packaging portion of the Demised Premises:</p> <p>(i) Seventy-five percent (75%) of 14.28% of the 2007 land only tax assessment (100% of such 2007 land only tax assessment being \$905,400, and 75% of \$905,400 being \$679,050 and 14.28% of \$679,050 being \$96,968.34) times the then current millage rate, PLUS</p> <p>(ii) Twenty-five percent (25%) of 14.28% of the then current land and improvements tax assessment for each year which would exist if the Demised Premises were owned by a tax paying entity, times the then current millage rate.</p> <p>(b) With respect to the non Evergreen Packaging portion Premises of the</p>

Demised

(i) 85.72% of the then current **land and improvements** tax assessment that would exist if the Demised Premises were owned by a taxpaying entity times the then current millage rate.

**As to the PILOT payment in lieu of City of Memphis (or of any Municipality) payment in lieu of taxes**

(a) With respect to the Evergreen Packaging portion of the Demised Premises:

(i) 14.28% of the now current tax assessment for land only (100% of such 2007 land tax assessment being \$905,400, and 14.28% being \$129,291.12), times the then current millage rate;

(b) With respect to the non-Evergreen Packaging portion of the Demised Premises:

(i) 85.72% of the then current land and improvements tax assessment which would exist if the Demised Premises were owned by a tax paying entity times the then current millage rate.

From the sixth (6<sup>th</sup>) anniversary of this Lease ss to payment in lieu of taxes for both until termination of this Lease and the Shelby County and City of reconveyance of the Demised Premises to Memphis (or any Municipality) Lessee pursuant to the provisions of this taxes Lease

As to the entire Demised Premises (100%) of the then current land and improvements tax assessment determined as though the Demised Premises were owned by a taxpaying entity times the then current millage rates.

3. With respect to Section 15.08 of the Lease Agreement, Lessee's address is deleted in its entirety and the following Lessee's address is hereby substituted in lieu thereof:

"Lessee's Address is: TIC Properties Management, LLC, 101 N. Main Street, 12<sup>th</sup> Floor, Greenville, South Carolina 29601, Attn: Barry L. Gruebbel, President; with a copy to: TIC Properties Management, LLC, 101 N. Main Street, 12<sup>th</sup> Floor, Greenville, South Carolina 29601, Attn: Shonna Felkel, Esq., General Counsel."

4. Lessor, Lessee and Applicant acknowledge and agree that this Amendment shall be recorded in the Shelby County Land Record, at Applicant's expense.

5. Except as expressly set forth in this Amendment, the Lease Agreement shall remain unmodified and in full force and effect, and as so modified and amended, the Lease Agreement is hereby ratified, approved and confirmed. This Amendment represents the entire agreement between Lessor and Lessee with respect to the matters described herein and may not be modified or changed except by written instrument executed by Lessor, Lessee and Applicant. This Amendment shall be construed, interpreted, and applied according to the laws of the State of Tennessee, notwithstanding any conflicts of laws rules or principles to the contrary, and shall be binding upon, and inure to the benefit of, Lessor, Lessee and Applicant and their respective successors and assigns. This Amendment may be executed in any number of duplicate originals or counterparts, all of which shall collectively constitute a single agreement. This Amendment shall be construed without regard to any presumption or rule requiring construction against the party responsible for the drafting of this Amendment.

6. Notwithstanding anything in this Amendment to the contrary, this Amendment shall be effective upon the satisfaction of all conditions to Applicant's occupancy of the expansion space under the Evergreen Sublease. If for any reason such conditions are not satisfied, then this Amendment will not take effect and will be void without any further action by any party. Applicant will, at Lessor's request, provide written notice to Lessor of the satisfaction of all such conditions.

[SIGNATURES BEGIN ON NEXT PAGE]

WITNESS the following signatures and seals:

THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF MEMPHIS AND COUNTY OF  
SHELBY, TENNESSEE, public not-for-profit  
Corporation the State of Tennessee

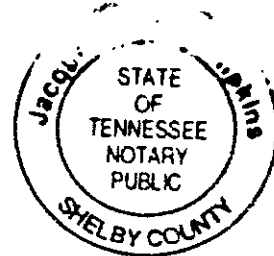
By: William A. Gillon  
Title: Board Member

STATE OF TENNESSEE     )  
  )  
COUNTY OF SHELBY     )

The foregoing instrument was acknowledged before me this 15 day of Sept, 2010,  
by William A. Gillon, the Board Member of THE INDUSTRIAL  
DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY,  
TENNESSEE, public not-for-profit corporation of the State of Tennessee, on behalf of said  
company. He/she is either personally known to me or who has produced a        driver's  
license as identification.

(Notarial Seal)

Jacqueline A. Tompkins  
Print Name Jacqueline A. Tompkins  
NOTARY PUBLIC  
State of Tennessee at Large  
My Commission Expires:  
11-20-2011



My Comm. Exp. 11-20-2011

TIC PROPERTIES MANAGEMENT, LLC,  
a Virginia limited liability company, on behalf of  
and agent for the tenant in common owners of  
the Building

By: Barry L. Gruebbel  
Barry L. Gruebbel, CPM, President

*AB*  
*RU*

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of August, 2010, by Barry L. Gruebbel, President of TIC Properties Management, LLC, a Virginia limited liability company, on behalf of and as agent for the tenant in common owners of the Building. He/she is either personally known to me or who has produced a South Carolina driver's license as identification.

(Notarial Seal)

Angela S. Dillard  
Print Name Angela S. Dillard  
NOTARY PUBLIC  
State of South Carolina  
My Commission Expires:  
4/2/14

