

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM716833

SUBMISSION TYPE:	RESUBMISSION
NATURE OF CONVEYANCE:	Release of Security Interest Recorded at Reel/Frame 4638/0088
RESUBMIT DOCUMENT ID:	900669208

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Hilco Consumer Capital, LLC		02/11/2019	Limited Liability Company: DELAWARE

RECEIVING PARTY DATA

Name:	The H Company Holdings, LLC
Street Address:	5 Revere Drive
Internal Address:	One Northbrook Place
City:	Northbrook
State/Country:	ILLINOIS
Postal Code:	60062
Entity Type:	Limited Liability Company: DELAWARE
Name:	The H Company, LLC
Street Address:	5 Revere Drive
Internal Address:	One Northbrook Place
City:	Northbrook
State/Country:	ILLINOIS
Postal Code:	60062
Entity Type:	Limited Liability Company: DELAWARE
Name:	The H Company IP, LLC
Street Address:	5 Revere Drive
Internal Address:	One Northbrook Place
City:	Northbrook
State/Country:	ILLINOIS
Postal Code:	60062
Entity Type:	Limited Liability Company: DELAWARE

PROPERTY NUMBERS Total: 14

Property Type	Number	Word Mark
Serial Number:	77740505	H
Registration Number:	3948842	H BY HALSTON
Registration Number:	2226564	HALSTON

Property Type	Number	Word Mark
Registration Number:	1012939	HALSTON
Registration Number:	2588723	HALSTON
Registration Number:	2492960	HALSTON
Registration Number:	1103001	HALSTON
Registration Number:	2393797	HALSTON
Registration Number:	2166353	HALSTON
Registration Number:	3621452	HALSTON
Registration Number:	1002073	HALSTON
Registration Number:	0999713	HALSTON
Serial Number:	77982165	H
Serial Number:	85273346	H BY HALSTON

CORRESPONDENCE DATA

Fax Number: 2158325767

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 2155695767

Email: perry@blankrome.com

Correspondent Name: David M. Perry

Address Line 1: One Logan Square

Address Line 2: 8th Floor

Address Line 4: Philadelphia, PENNSYLVANIA 19103

NAME OF SUBMITTER:	David M. Perry
SIGNATURE:	/David M. Perry/
DATE SIGNED:	03/25/2022

Total Attachments: 12

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AMENDMENT AND CONSENT AGREEMENT

This Amendment and Consent Agreement (this “**Amendment**”), dated as of February __, 2019, is made by and among the lenders (the “**Lenders**”) to the Loan Agreement (as defined below) listed on the signature pages hereto, which Lenders constitute the Requisite Majority (as defined in the Loan Agreement), Hilco Consumer Capital, LLC (the “**Security Agent**” and, together with the Lenders, collectively, the “**Creditors**” and each, individually a “**Creditor**”), The H Company Holdings, LLC (“**Holdings**”), The H Company, LLC, (“**H Co.**”) and The H Company IP, LLC (“**HIP**” and, together with Holdings and H Co., the “**Borrowers**” and each of them being a “**Borrower**”), Xcel Brands, Inc. a Delaware corporation (“**Xcel**”) and H Heritage Licensing, LLC, a Delaware limited liability company and a wholly-owned subsidiary of Xcel (the “**Buyer**”).

WHEREAS, the Creditors have loaned \$2,499,200 to the Borrowers pursuant to a Loan and Security Agreement dated as of May 29, 2009 (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof, the “**Loan Agreement**”; capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Loan Agreement) and the Borrowers have granted to the Security Agent, as collateral security for repayment of such loans, security interests in certain assets of the Borrowers, including certain intellectual property (the “**Collateral**”), pursuant to security arrangements set out pursuant to the Loan Agreement and the other Loan Documents;

WHEREAS, HIP and The House of Halston, LLC (“**HOH**” and, together with HIP, the “**Sellers**”) are proposing to enter into an Asset Purchase Agreement with the Buyer (the “**Asset Purchase Agreement**”), whereby the Buyer would purchase certain assets of the Sellers, including assets that constitute Collateral (such assets, the “**Acquired Assets**”), for a purchase price (“**Purchase Price**”) set out in the Asset Purchase Agreement which includes cash consideration, stock and an earn-out payable in either cash or shares of Xcel’s common stock, at the election of Xcel, all on the terms and subject to the conditions set forth in the Asset Purchase Agreement;

WHEREAS, Section 3.4 of the Loan Agreement provides that, among other things, the sale, or other disposition by any Borrower of all or substantially all of the assets of such Borrower is a Change of Control Transaction and upon the occurrence of a Change of Control Transaction the proceeds of such sale are to be paid in respect of, among other indebtedness, the Obligations;

WHEREAS, pursuant to Section 6.5(b) of the Loan Agreement, unless approved in writing by the Requisite Majority, the Borrowers shall not enter into a Change of Control Transaction unless all amounts owed under the Notes will be paid at or before the closing of the Change of Control Transaction;

WHEREAS, the Borrowers have requested, and the Security Agent and the Requisite Majority have agreed, subject to the terms and conditions of this Amendment, that, in connection with the Asset Purchase Agreement, each Creditor party hereto (a) consent to the transactions contemplated by the Asset Purchase Agreement, including the sale of the Acquired Assets, without requiring payment in full of all amounts owed to the Creditors under the Notes; (b) waive any rights such Creditor may have in respect of the Asset Purchase Agreement and, to the extent such rights are not waivable, assign such rights to the Buyer; (c) release and terminate all security interests and liens the Security Agent has in the Acquired Assets under the Loan Agreement and the other Security Documents; (d) make certain acknowledgements and agreements with respect to the consideration payable for the Acquired Assets and certain related matters and (e) amend certain terms and provisions contained in the Loan Agreement, in each case pursuant to the terms and conditions set forth in this Amendment; and

WHEREAS, the Creditors party hereto, as direct or indirect equity holders of the Borrowers, will derive direct and indirect financial benefits from the transactions contemplated by the Asset Purchase Agreement, and, as a result, are willing to provide such consent, waiver, assignment, release, subordination, acknowledgements, and amendments, all on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions and Interpretation.**

(a) Definitions: For purposes of this Amendment, the following terms have the meanings specified in this Section 1:

(i) **“Affiliate”** means, with respect to a specified Person, any other Person which, directly or indirectly, controls or is controlled by that Person, or is under common control with that Person (“control”, “controlled by” and “under common control with”, as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise).

(ii) **“Bankruptcy Event”** means, with respect to any Borrower or any of their respective Affiliates, any event resulting in such Borrower or Affiliate becoming the subject of a bankruptcy or insolvency proceeding or proposal, or having a receiver, interim receiver, monitor, sequestrator, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar person charged with the reorganization or liquidation of its business, appointed for it, or any action taken by any Borrower or any such Affiliate in furtherance of, or indicating its consent to, approval of, acquiescence in, any such proceeding or appointment.

(iii) **“Person”** means any individual, partnership, corporation, business trust, limited liability company, joint stock company, trust, unincorporated association, joint venture or other entity or government authority.

(b) Interpretation. In this Amendment, unless a clear contrary intention appears: (i) the singular includes the plural and vice versa; (ii) reference to any gender includes each other gender; (iii) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (iv) reference to any law, rule or regulation shall mean such law, rule or regulation as amended, modified, codified, replaced or re-enacted, in whole or in part, and in effect from time to time, and reference to any section or other provision of any law, rule or regulation means that section or provision from time to time in effect and constituting the substantive amendment, modification, codification, replacement or re-enactment of such section or other provision; (v) “hereunder”, “hereof”, “hereto” and words of similar import shall be deemed references to this Amendment as a whole and not to any particular section of this Amendment; (vi) “including” (and with the correlative meaning “include”) means including without limiting the generality of any description preceding such term; (vii) “or” is used in the inclusive sense of “and/or”; and (viii) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

2. **Amendment.** Section 3.4 of the Loan Agreement is hereby amended and restated in its entirety as follows:

“3.4 **Mandatory Prepayment.** Subject to the last sentence of this Section, any and all amounts owed under the Notes shall be due and payable if any of Holdings, H Company or H Company IP effects (a) any consolidation or merger with or into any other business entity in which the Members of such entity immediately prior to such consolidation or merger do not hold at least a majority of the resulting or surviving entity’s voting power, either directly or indirectly,

immediately after such consolidation or merger; (b) any other transaction or series of related transactions (other than the sale of equity securities by such entity in a capital raising transaction) as a result of which the Members of such entity immediately prior to such transaction or series of related transactions do not hold at least a majority of the resulting or surviving entity's voting power, either directly or indirectly, immediately after such transaction or series of related transactions; or (c) the sale, exclusive lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company of all or substantially all of the assets of the Company, except where such sale, lease, transfer, license or other disposition is to a direct or indirect subsidiary of the Company (a transaction of the sort described in clauses (a), (b) and (c), being referred to herein as a "**Change of Control Transaction**"). Notwithstanding the foregoing, amounts owed under the Notes shall not become due and payable as a result of a Change of Control Transaction that has been approved in writing by the Requisite Majority."

3. **Consent.** In accordance with Section 6.5(b) of the Loan Agreement, each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby (i) consents to the Borrowers' execution and delivery of the Asset Purchase Agreement and the Borrowers' consummation of the transactions contemplated thereby, including the sale of the Acquired Assets and (ii) agrees and acknowledges that, pursuant to the terms of Section 3.4 of the Loan Agreement as amended hereby, the proceeds of such sale are not required to be paid in respect of the Obligations or the Notes.

4. **Waiver; Covenant not to Sue.** Without limiting the generality of the foregoing, each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby waives any claims it may have against the Buyer and the Buyer's Affiliates related, directly or indirectly, to the consummation of the transactions contemplated by the Asset Purchase Agreement, including, without limitation, under any applicable law or in any Bankruptcy Event that occurs before or after such consummation. To the extent that any of such claims cannot be waived as a matter of law, then each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby assigns all of such claims to the Buyer. Each Creditor party hereto agrees, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, not to commence any action, suit or proceeding against Buyer or any of its Affiliates in respect of any of the rights or claims waived in this Section Error! Reference source not found.

5. **Release and Termination of Security Interests and Liens; Subordination and Standstill.**

(a) Each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby (a) unconditionally and irrevocably releases all security interests, liens and pledges granted in the Acquired Assets under the Loan Agreement and the other Loan Documents and (b) acknowledges and agrees that all such security interests, liens and pledges are hereby unconditionally and irrevocably terminated. Each Creditor hereby agrees to execute and deliver any and all agreements, documents and instruments necessary to effectuate the foregoing releases and terminations, in each case as requested by the Buyer. Each Creditor hereby authorizes the Buyer and its designees to file UCC-3 termination statements in all appropriate jurisdictions and termination agreements with the United States Patent and Trademark Office to evidence the foregoing releases and terminations.

(b) Each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby acknowledges and agrees that 1,000,000 shares of Xcel common stock owned by HIP (the "**Xcel Shares**") are being pledged as collateral to the Buyer to secure the indemnification obligations of the Sellers under the Asset Purchase

Agreement pursuant to a Pledge Agreement dated as of the date hereof by HIP, as pledgor, in favor of the Buyer, as secured party (the “**Pledge Agreement**”). Each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby consents to the pledge and security interest in the Xcel Shares and related collateral granted by HIP to the Buyer under the Pledge Agreement and further acknowledges and agrees that any security interests and liens such Creditors may have in the Xcel Shares or any related collateral shall be subordinated to the security interests and liens the Buyer may have in the Xcel Shares. Without limiting the generality of the foregoing, each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby agrees that it shall not (i) and hereby waives any right to take any action to contest or challenge (or assist or support any other Person in contesting or challenging), directly or indirectly, whether or not in any proceeding (including in any bankruptcy or insolvency proceeding), the validity, priority, enforceability, or perfection of the indemnity obligations owing to the Buyer or the Buyer's security interests and liens in the Xcel Shares or the provisions of this Agreement, (ii) pursue the exercise of any secured creditor enforcement rights or remedies that are available upon the occurrence of an event of default with respect to any Borrower, any other obligor party to any Loan Document or the Xcel Shares, or (iii) be a petitioning creditor or otherwise assist in the filing of an involuntary bankruptcy or insolvency proceeding against any Borrower. Each Creditor acknowledges and agrees that the Buyer shall have possession and control over any and all certificates evidencing the Xcel Shares. Each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, shall execute any agreements, instruments and documents and shall take any actions as requested by the Buyer to effectuate the consent, subordination and standstill referenced in this Section 5(b). In the event of any private or public sale or other disposition of all or any portion of the Xcel Shares by the Buyer in connection with any exercise of remedies by the Buyer, each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, agrees that such sale, transfer or other disposition will be free and clear of the security interests and liens in such Xcel Shares held by the Creditors, and the Creditor's security interests and liens with respect to the Xcel Shares so sold, transferred, or disposed of shall terminate and be automatically released without further action concurrently with, and to the same extent as, the release of the Buyer's security interests and liens on such Xcel Shares. The provisions of this Section 5(b) are intended to be and shall be enforceable under Section 510(a) of the Bankruptcy Code.

6. **Acknowledgement and Agreement.** Each Creditor party hereto, on behalf of itself and, where applicable, in its capacity as agent for the other Creditors party to the Loan Agreement, hereby acknowledges and agrees that (a) the Purchase Price payable to the Sellers under the Asset Purchase Agreement (i) is fair and adequate and (ii) constitutes reasonably equivalent value (as those terms are defined in each of the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and Section 548 of the United States Bankruptcy Code) and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia; (b) the Asset Purchase Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession or the District of Columbia; (c) by consummating the transactions contemplated by the Asset Purchase Agreement, neither the Buyer nor any of the Buyer's Affiliates is a mere continuation of either Seller or any of their respective Affiliates or any estate with respect to the foregoing Persons, and there is no continuity, no common identity and no continuity of enterprise between the Buyer or any of the Buyer's Affiliates, on the one hand, and either Seller or any of their Affiliates, on the other hand; (d) neither Buyer nor any of the Buyer's Affiliates is holding itself out as a continuation of either Seller or any of their respective Affiliates; (e) neither Buyer nor any of the Buyer's Affiliates is a successor to either Seller or any of their respective Affiliates or any estate of any of the foregoing Persons by reason of any theory of law or equity, and the consummation of the transactions contemplated by the Asset

Purchase Agreement does not amount to a consolidation, merger or de factor merger of the Buyer or any of the Buyer's Affiliates, on the one hand, and any Seller or any of their respective Affiliates, on the other hand; and (d) neither the Buyer nor any of the Buyer's Affiliates, nor any of their respective successors, assigns, members, partners, principals or shareholders (or their equivalent) shall assume or in any way be responsible for any obligation or liability of either Seller or any of their respective Affiliates or any estate of any of any of the foregoing Persons, including any obligation under any collective bargaining agreement or labor practice agreement, except as expressly set forth in the Asset Purchase Agreement.

7. **Representations and Warranties.** Each Creditor party hereto hereby represents and warrants, to the extent applicable to such Creditor, to the Buyer that (a) the execution and delivery of this Amendment by such Creditor: (i) is within the corporate or limited liability company powers of such Creditor, (ii) has been duly authorized by all necessary corporate or limited liability company action on behalf of such Creditor and, in the case of each Creditor acting as agent for other Creditors party to the Loan Agreement, by the requisite number of such other Creditors; and (iii) does not and will not: (1) require any consent or approval of the board of directors or similar governing body of such Creditor; (2) violate any provision of the articles of incorporation or formation of such Creditor, its bylaws, limited liability company operating agreement, or any other document of corporate governance, or any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to such Creditor; or (3) require the consent or approval of, or filing or registration with, any governmental body, agency or authority; and (b) this Amendment constitutes legal, valid, and binding obligations of such Creditor, and, in the case of each Creditor acting as agent for other Creditors party to the Loan Agreement, such other Creditors, enforceable in accordance with its terms.

8. **Legal Counsel; Construction.** Each Creditor party hereto acknowledges that it has: (a) been represented, or had the opportunity to be represented, by its own legal counsel with respect to this Amendment; (b) exercised independent judgment with respect to this Amendment; and (c) not relied on counsel to the Buyer or any of the Buyer's Affiliates for any advice with respect to this Amendment or the Asset Purchase Agreement. Based upon the foregoing, no rule of contract construction or interpretation shall be employed to construe this Amendment more strictly against one party or the other.

9. **Severability.** Each provision of this Amendment shall be severable from every other provision of this Amendment for the purpose of determining the legal enforceability of any specific provision.

10. **Governing Law.** This Amendment shall be governed by, and construed in accordance with, the internal laws (and not the law of conflicts) of the State of New York.

11. **Jurisdiction.** EACH CREDITOR PARTY HERETO HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN NEW YORK, NEW YORK AND WAIVES ANY OBJECTION BASED ON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS AMENDMENT, THE ASSET PURCHASE AGREEMENT, OR ANY DOCUMENT DELIVERED HEREUNDER OR IN CONNECTION HERewith, OR ANY TRANSACTION ARISING FROM OR CONNECTED TO ANY OF THE FOREGOING. EACH CREDITOR PARTY HERETO WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON THEM, AND CONSENT TO ALL SUCH SERVICE OF PROCESS MADE BY MAIL OR BY MESSENGER DIRECTED TO THEM AT THE ADDRESSES SPECIFIED IN THE LOAN AGREEMENT. NOTHING HEREIN SHALL AFFECT THE RIGHT OF XCEL OR BUYER TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW, OR LIMIT THE RIGHT OF XCEL OR BUYER TO BRING PROCEEDINGS AGAINST ANY CREDITOR OR ANY OF THEIR PROPERTY OR ASSETS IN THE COMPETENT COURTS OF ANY OTHER JURISDICTION OR JURISDICTIONS.

12. **Waiver of Jury Trial.** EACH CREDITOR PARTY HERETO HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS AMENDMENT, THE ASSET PURCHASE AGREEMENT, ANY DOCUMENT DELIVERED HEREUNDER OR IN CONNECTION HERewith, OR ANY TRANSACTION ARISING FROM OR CONNECTED TO ANY OF THE FOREGOING. EACH CREDITOR REPRESENTS THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

13. **Waiver of Certain Damages.** EACH CREDITOR PARTY HERETO HEREBY WAIVES ANY RIGHT ANY OF THEM MAY NOW OR HEREAFTER HAVE TO CLAIM OR RECOVER FROM XCEL OR BUYER ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES).


14. **No Third-Party Beneficiaries.** This Agreement shall be binding on each Creditor party hereto and, in the case of each Creditor acting as agent for other Creditors party to the Loan Agreement, such other Creditors, and each of their respective successors and assigns, and shall inure solely to the benefit of the Buyer, the Buyer's Affiliates and their respective successors and assigns. No third-party or other person or entity shall have any rights or benefits under this Agreement.

15. **Counterparts.** This Amendment may be executed in any number of counterparts, all of which shall constitute one and the same agreement, and any party hereto may execute this Amendment by signing and delivering one or more counterparts. Delivery of an executed counterpart of this Amendment electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Amendment.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Consent as of the date first above written.

HILCO CONSUMER CAPITAL, LLC

By:  _____

Name: Eric W. King

Title: Assistant Secretary

AMMEEN HOLDINGS, LLC

By: _____

Name: _____

Title: _____

INVESTMENT PARTNERSHIP (2007) LP

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

HILCO CONSUMER CAPITAL, LLC

By: _____

Name: _____

Title: _____

AMMEEN HOLDINGS, LLC

By: *James J. Ammeen*

Name: JAMES J. AMMEEN

Title: CHAIRMAN

INVESTMENT PARTNERSHIP (2007) LP

By: _____

Name: _____

Title: _____

[Signature page to Amendment and Consent Agreement: May 29, 2009 Loan]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

HILCO CONSUMER CAPITAL, LLC

By: _____

Name: _____

Title: _____

AMMEEN HOLDINGS, LLC

By: _____

Name: _____

Title: _____

INVESTMENT PARTNERSHIP (2007) LP

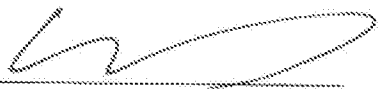
By:  _____

Name: Christopher Payne

Title: _____

[Signature page to Amendment and Consent Agreement: May 29, 2009 Loan]

XCEL BRANDS, INC.

By: 

Name: SETH BUNDOGANS

Title: VP

H HERITAGE LICENSING, LLC

By: 

Name: SETH BUNDOGANS

Title: VP

[Signature page to Consent and Waiver: May 29, 2009 Loan]

THE H COMPANY HOLDINGS, LLC

By: 

Name: Eric V. Katz

Title: Assistant Secretary

THE H COMPANY, LLC

By: 

Name: Eric V. Katz

Title: Secretary

THE H COMPANY IP, LLC

By: 

Name: Eric V. Katz

Title: Secretary

[Signature page to Amendment and Consent Agreement: May 29, 2009 Loan]