

Loan No.: [REDACTED]  
Property Address: [REDACTED]  
Chula Vista, CA 91914-4166

**MODIFICATION AGREEMENT**  
(Loan Work-out/Step Rate)

THIS MODIFICATION AGREEMENT (the "Agreement") is made as of September 24, 2008, by and between [REDACTED] and [REDACTED] ("Borrower") and World Savings Bank, FSB, a Federal Savings Bank, nka Wachovia Mortgage, FSB, its successors and/or assigns ("Lender").

**Recitals**

A. Lender previously made a loan to Borrower evidenced by that certain Promissory Note executed by Borrower dated December 9, 2005, in the original principal amount of \$556,500.00, (the "Note") and any riders or modifications thereto (the "Loan"). As of the date of this Agreement, the outstanding principal balance of the Loan is \$594,667.26.

B. The Note is secured by that certain Deed of Trust, executed by Borrower, as trustee, in favor of Golden West Savings Association Service Co., A California Corporation, 4101 Wiseman Boulevard, San Antonio, Texas 78251, for the benefit of Lender, as beneficiary, dated December 9, 2006, recorded December 16, 2006, as Instrument/Document No: [REDACTED] in the Official Records of San Diego County, California, (the "Security Instrument") securing a lien on the property referenced in the legal description attached to the Security Instrument and more commonly known as the address referenced above (the "Property"), and any riders or modifications thereto.

**Agreement**

In consideration of the mutual promises and covenants set forth in this Agreement, Borrower and Lender agree as follows:

**1. Acknowledgment of Default and Borrower's Obligations.**

Borrower acknowledges and agrees that each recital above is true and correct and that a valid and material default(s) exists under the loan. Borrower further agrees that the amounts that have come due under the Note and Security Instrument (as each may be modified by this Agreement) are due and owing without any setoff, deduction, counterclaim, or defense of any kind. Borrower understands and agrees that, except as expressly modified in this Agreement, the Note and the Security Instrument remain in full force and effect and are valid and binding obligations upon Borrower and are properly secured by the Property.

[REDACTED]  
[REDACTED]  
[REDACTED]

2. Lender's Agreement to Forbear.

In exchange for (a) Borrower's non-refundable payment of the modification fee of \$100.00(waived) (b) Borrower's payment described below; and (c) Borrower's complete performance of each and every obligation under this Agreement, Lender agrees to not accelerate the Loan or take further action to have the Property sold based on the referenced default(s). Borrower understands and agrees, however, that Lender's agreement is subject to the terms and conditions set forth in this Agreement and that Lender has not agreed to waive or defer any future non-compliance with this Agreement, the Note, or the Security Instrument. Borrower agrees that a default under this Agreement constitutes a default under the Note and the Security Instrument, and that upon such default, or any other default under the Note or Security Instrument, Lender may exercise all of its rights and remedies under the Note and the Security Instrument, including, without limitation, its rights to accelerate the Loan and to proceed to sell the Property.

3. Adding Certain Delinquent Amounts to Principal.

a. The amount of \$14,575.48, representing the delinquent interest, late charge fees and non-sufficient fund fees will be added to the principal balance of the Note and begin accruing interest at the rate that is in effect under the terms of the Note, commencing September 15, 2008.

4. Adding Advance Amount to Principal.

Lender has advanced or will advance \$1,847.83 (the "Advance Amount") for the payment of foreclosure fees and estimated property inspection fees. The Advance Amount will be added to the principal balance of the Note and begin accruing interest at the rate that is in effect under the Note, commencing September 15, 2008.

5. Conditions to Lender's Agreement.

(a). This agreement shall be conditioned upon the receipt of \$75.00 (received) for the title search fee;

(b). This agreement shall be conditioned upon Lender receiving this Agreement properly signed by Borrower.

This Agreement will only become effective upon receipt of the items required in subparagraphs (a) and (b) provided that the items are received no later than **October 2, 2008**.

6. Payment by Borrower to Reduce Loan Obligation.

Borrower will make a payment of \$2,700.00 (received) to Lender by **October 2, 2008**. Borrower's payment will be applied to the loan according to the terms of the Note.



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[REDACTED]

**7. Capitalization Itemization.**

(a) Lender agrees to add the following amount for the items listed to the current principal balance (capitalize):

Interest Payments:		
Delinquent Interest: 5/15/08-9/14/08	\$	14,058.92
Late Charge Fees:	\$	501.56
NSF Charge Fees:	\$	15.00
Estimated Foreclosure Fees:	\$	1,827.83
Estimated Prop. Inspection Fees:	\$	20.00
<b>TOTAL ARREARAGE:</b>	<b>\$</b>	<b>16,423.31</b>
Less: Borrower's Payment Described in Paragraph 6:	\$	(2,700.00)
<b>TOTAL ARREARAGE TO BE CAPITALIZED</b>	<b>\$</b>	<b>13,723.31</b>

(b) The total arrearage shall be added to the current principal balance of \$594,667.26 for a new principal balance of \$608,390.57.

**8. Temporary Fixed Interest Rate Period**

a. Effective September 15, 2008 through and including September 14, 2009 the loan shall accrue interest at a rate of 2.00% per annum.

b. Effective September 15, 2009 through and including September 14, 2010 the loan shall accrue interest at a rate of 4.00% per annum.

c. Effective September 15, 2010 the loan shall accrue interest according to the original terms of the Promissory Note. The interest will periodically adjust as provided in the Note and will be based on an adjustable interest rate calculated in accordance with the Note.

**9. Minimum Payments; Reamortization; Payment Change Dates.**

a. A new monthly minimum payment amount of \$2,409.31 will be due on **October 15, 2008**. This will be the Borrower's monthly payment amount during the first Temporary Fixed Interest Rate Period as described in paragraph 8 (a) above. Lender has calculated this new amount by estimating the unpaid principal that will be owing on **October 15, 2008** assuming Borrower will pay on time and in full all payment(s) due under this Agreement prior to that time.



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[REDACTED]  
[REDACTED]  
[REDACTED]

b A new monthly minimum payment amount of \$3,030.43 will be due on **October 15, 2009**. This will be the Borrower's monthly payment amount during the second Temporary Fixed Interest Rate Period as described in paragraph **8 (b)** above. Lender has calculated this new amount by estimating the unpaid principal that will be owing on **October 15, 2009**, assuming Borrower will pay on time and in full all payment(s) due under this Agreement prior to that time.

c. The minimum payment amount will change on **October 15, 2010** and will be calculated according to the terms of the note at the rate according to section **8 (c)** above. Lender will calculate this new amount by estimating the unpaid principal that will be owing on that date, assuming Borrower will pay on time and in full all payment(s) due under this Agreement prior to that time.

d. The monthly payment amount will change at the next scheduled payment change date which is on **February 15, 2011**, or sooner if required by the Note. The payment due at that time will be calculated according to the terms of the Note. Each payment change date thereafter will occur as provided in the Note.

#### 10. Payment Cap.

The Note provides that the amount by which a regular payment may change on any Payment Change Date will not exceed 7.5% (or such other percentage as may be stated in the Note) of the regular payment in effect immediately preceding that Payment Change Date. This percentage limitation is referred to as the "Payment Cap." The Note provides, however, that the Payment Cap does not apply on the **February 15, 2016** Payment Change Date, every fifth Payment Change Date after that, or on the final Payment Change Date before maturity. An instance in which the Payment Cap does not apply is referred to as a "Recast Date."

Borrower and Lender agree that any Recast Date, as defined in the Note and/or Security Instrument, which may currently be scheduled during a Temporary Fixed Interest Rate Period will not cause the loan to recalculate.

**NOTE: This paragraph only applies if the Recast Date referenced above is within 5 years of October 15, 2008.**

Borrower and Lender agree that notwithstanding anything to the contrary in the Note, the Payment Cap will apply on the first Recast Date after the Effective Date of this modification. Borrower understands and agrees that the Payment Cap will not apply to any Recast Dates thereafter.

[REDACTED]  
[REDACTED]  
[REDACTED]

**11. Maturity Date**

The Loan is due in full on the Maturity Date stated in the Note. The Maturity Date will not change as a result of this Agreement. If Borrower still owes any amount under the Note on the Maturity Date, Borrower will pay those amounts in full on that date. Borrower is liable for said amounts except to the extent discharged in bankruptcy, in which instance payment is solely for the satisfaction of the lien secured by the property.

**12. Release of Claims.**

Borrower, on behalf of Borrower and Borrower's legal representatives, successors and assigns, hereby releases, waives, acquits and discharges Lender and Lender's legal representatives, parent and affiliated entities, successors-in-interest, agents, attorneys, assigns, employees, shareholders, officers and directors, from any and all liabilities, claims, demands, defenses, actions, causes of action and rights of whatsoever kind and nature (collectively, "Claims"), known or unknown, foreseen or unforeseen, which Borrower may now or hereafter have, existing or occurring prior to or as of the execution and delivery of this Agreement, and which in any way, directly or indirectly, relate to, result from or arise out of the loan or any transactions related thereto, including without limitation this modification document and any Claims relating to, resulting from or arising out of the negotiation, making, funding, administration or collection of the loan and any purported oral agreements or understandings by and between Borrower and Lender concerning the Note, the Security Instrument and/or any amendments, modifications or forbearances of the Note and/or the Security Instrument.

In connection with the foregoing release, Borrower waives any and all rights which exist or may exist under Section 1542 of the California Civil Code and any similar provision of law of any other jurisdiction. Section 1542 provides:

**"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."**

Borrower understands and agrees that release set forth above is a full and final release that extinguishes all claims whether known, unknown, foreseen or unforeseen.

[REDACTED]

**13. Interpretation and Modification of this Agreement.**

This Agreement supersedes and replaces any prior negotiations, agreements or understandings, whether written, oral, or implied, between Borrower and Lender concerning the subject matter of this Agreement. Except as specifically modified by this Agreement, the Note and the Security Instrument remain unchanged and in full force and effect, except to the extent discharged by a bankruptcy proceeding, in which case execution by a discharged debtor is solely as an owner of the Property that secures the loan and does not establish any personal liability for such debtor. This Agreement modifies the Note and the Security Instrument only as expressly provided herein, and shall not be deemed, interpreted, or construed as a novation, replacement, or substitution of the Note or the Security Instrument, which remain in full force and effect. To the extent of any inconsistency between this Agreement and the Note and the Security Instrument, the provisions of this Agreement shall prevail. Any capitalized term not defined in this Agreement shall have the meaning given the term in the Note or, if not defined in the Note, in the Security Instrument. This Agreement can only be changed, amended, or modified in a writing signed by Lender and Borrower.

**14. Termination of this Agreement.**

In the event Borrower does not make a payment required by this Agreement in full and by the date on which it is due, or Borrower commits any additional default under the Note or the Security Instrument, Lender may, in its sole discretion, terminate this Agreement and may declare all amounts owing to Lender to be immediately due and payable in accordance with the Note and the Security Instrument.

**15. Changes or Extensions of this Agreement.**

This Agreement may be extended or reinstated only by a written agreement signed by Lender and Borrower.

**16. Severability.**

In the event that any of the terms or provisions of this Agreement are interpreted or construed by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those provisions so construed or interpreted and shall not affect the remaining provisions of this Agreement.

[REDACTED]

**17. Borrower's Understanding of this Agreement.**

Borrower acknowledges and agrees that (a) Borrower has read this Agreement in its entirety and has had the opportunity to obtain copies of this Agreement, the Note, and/or the Security Instrument; (b) Borrower has consulted with an attorney of Borrower's choosing regarding this Agreement, or has had ample opportunity to consult with an attorney of Borrower's choosing but has elected not to do so; and (c) Borrower has voluntarily entered into this Agreement and Lender has not attempted to coerce Borrower in any way. Borrower agrees, therefore, that no ambiguity in this Agreement shall be construed against Lender as the draftsman.

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement as of the date first written above.

BORROWER(S):

LENDER:  
Wachovia Mortgage, FSB



THE LAW OFFICES OF  
[REDACTED] MICHAEL GADDIS  
Assistant Vice President