2007-006636 Klamath County, Oregon



04/10/2007 11:25:24 AM

Fee: \$61.00

MTC73492-KR

AFTER RECORDED RETURN TO:

Bank of America, N.A. ATTN: Construction 9000 Southside Blvd., Ste. 700 Jacksonville, FL 32256 PARCEL NUMBER:

LOAN NUMBER:

6709121427

Prepared by: Barbara Leuellen Robertson & Anschutz 10333 Richmond Avenue, Suite 550 Houston, TX 77042 713-871-9600

NOTE AND SECURITY INSTRUMENT MODIFICATION AGREEMENT

The State of Oregon

County of Klamath

9999

KNOW ALL MEN BY THESE PRESENTS:

Recitals

This agreement ("Modification Agreement") is made on March 01, 2007, between Michael Cornachione and Harriet S. Cornachione, as tenants by the entirety, (herein "Borrower") and Bank of America, N.A. (herein "Lender"), whose loan servicing address is P.O. Box 9000, Getzville, NY 14068-9000, for a Modification of that certain Deed of Trust, Mortgage or Security Deed, and any riders thereto (the "Security Instrument") and Note dated April 04, 2006, in favor of Bank of America, N.A., and any addenda thereto, and any previous modification(s) thereof, said Note being in the original principal amount of \$348,000.00, said Security Instrument having been recorded in/under Official Records of Real Property of Klamath County, Oregon, covering property described as follows:

See Exhibit "A" attached hereto and made a part hereof for all purposes

WITNESSETH:

WHEREAS, Borrower now desires to modify the Note and ratify said liens against the Property; and

WHEREAS, Lender, the legal owner and holder of said Note and liens securing same, in consideration of the premises and at the request of the Borrower has agreed to modify the Note as hereinafter provided; and

WHEREAS, Borrower and Lender desire that the address on the Security Instrument and Note be modified to read as follows: 7329 Peregrine Heights, Klamath Falls, OR 97601; and

WHEREAS, Borrower and Lender desire that the Security Instrument and Note be modified as herein provided but that all terms not so modified remain unchanged and in full force and effect.

(R&A) RA0169650 - modagrx.bax - Rev. 01/17/2007

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NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree that the Note and Security Instrument are hereby modified as shown in "ATTACHMENT A", attached hereto and made a part hereof for all purposes.

Further, it is expressly agreed that for and in consideration of this Modification Agreement, Borrower hereby releases and forever discharges Lender and its officers, directors, counsel, employees, agents, predecessors, successors, and assigns from all causes of action, claims, rights, and controversies, known or unknown, which Borrower had, now has, or may hereafter acquire which relate to, are based on, arise out of, or are in any way connected with any acts of Lender or its above affiliates occurring prior to the execution of this Agreement and relating in any manner to the above described Note or Security Instrument or the Property described herein or therein. This is a general release of all possible claims and causes of action of every kind and character related to the above described subject matter and is to be interpreted liberally to effectuate maximum protection of Lender and its above affiliates.

The Borrower hereby ratifies said liens on the Property until the Note as so modified hereby has been fully paid, and agrees that this renewal, extension and/or modification shall in no manner affect or impair the Note or the liens securing same and that said liens shall not in any manner be waived, but are acknowledged by Borrower to be valid and subsisting, the purpose of this instrument being simply to modify the Security Instrument and the time and manner of payment of the Note and ratify all liens securing same, and the Borrower further agrees that all terms and provisions of the Note, the Security Instrument and the other instruments creating or fixing the liens securing same shall be and remain in full force and effect as therein written except as otherwise expressly provided herein.

A breach or other default of any of the terms of this Agreement by Borrower shall constitute a breach or default under the Note and Security Instrument, and Lender shall thereupon have the right to seek all remedies available to it under the aforesaid loan instruments.

Borrower covenants and agrees that the rights and remedies of Lender under this Agreement are cumulative of, are not in lieu of but are in addition to, and their exercise or the failure to exercise them shall not constitute a waiver of, any other rights and remedies which Lender shall have under the Note or the Security Instrument.

Borrower covenants and agrees that this Agreement represents the final agreement between Borrower and Lender relating to the above described subject matter and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties hereto. Borrower further covenants and agrees that there are no unwritten oral agreements between parties hereto relating to the above described subject matter.

there are no unwritten oral agreements between parties hereto relating to the above described subject matter.

As used herein "Lender" shall mean **Bank of America**, **N.A.** or any future holder, whether one or more, of the Note.



Modification Agreement Page 2

EXECUTED this the <u>215</u> day of <u>Mun</u>	to be effective March 01, 2007.
MM ACC-	3/21/07
Michael Cornachione	Date
Musiet S. Cornactione	3/21/07
Harriet S. Cornachione	Date
On this 21 day of MARCH Cornachione and Harriet S. Cornachione and acknowledges to the second	
OFFICIAL SEAL JONATHAN R. GLIDEWELL NOTARY PUBLIC – OREGON COMMISSION NO. 395393 MY COMMISSION EXPIRES JULY 27, 2009	My commission expires: JULY 27, 2009

ACCEPTED AND AGREED TO BY THE OWNER AND HOLDER OF SAID NOTE: BANK OF AMERICA, N.A.

Name: Judy L. Beller

Title: Vice President

Witness:

Witness:

Corporate Acknowledgement

STATE OF TEXAS COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared Judy L. Beller, as Vice President of Bank of America, N.A. known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed, in the capacity therein stated, as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 2007.

day of March

My Commission Expires:

Notary Public in and for The State of Texas

Name:

JUDY OAKLEY Notary Public STATE OF TEXAS

Му **Co**mm. Ехр. 11-10-10

ATTACHMENT A

The Note shall be and hereby is amended as follows:

The beginning date for monthly payments of principal and interest set forth in paragraph 3 is changed from March 01, 2007 to April 01, 2007.

The Maturity Date is changed from February 01, 2037 to March 01, 2037.

The Addendum or Rider to Note shall be and hereby is amended as follows:

The "Rollover Date" as defined therein is changed from February 01, 2007 to March 01, 2007.

The Security Instrument shall be and hereby is amended as follows:

Reference to the maturity date of the debt secured by the Security Instrument is changed from February 01, 2037 to March 01, 2037.

The address of the Property is modified to 7329 Peregrine Heights, Klamath Falls, OR 97601.

(R&A) RA0169650 - modagrx.bax (attachment a)

EXHIBIT "A"

Lot 46, Tract 1460 - GRAY ROCK PHASE 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon



(R&A) 6302825.m&b

Loan No.: 6709121427

FINAL WAIVER AND RELEASE OF LIEN

The undersigned ("Affiant"), being first duly sworn, deposes and says:

Affiant is a general contractor, subcontractor, materialman, other entity, or an officer, agent, or representative of same, who or which has furnished services, labor, or materials ("Contractor") in the construction, repair, and/or replacement (the "Work") of improvements upon real property owned by Michael Cornachione and Harriet S. Cornachione, as tenants by the entirety ("Borrower"), located at * Gray Rock Klamath Falls, OR 97601 in Klamath County, Oregon, and described as follows:

SEE EXHIBIT 'A'LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES

Contractor has furnished:

(Describe nature of Labor/Materials on the above pro-	roject.	roject.
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Original contract sum:		\$	280,000.00
Net change by change orders:		\$	
Contract sum to date:		\$	
Total Completed and stored to date:		\$	
Retainage:		\$	
Total earned less retention:	_	\$	
Less: Previous certificates for payment:		<u> </u>	
Current Payment:		¢	
•		Ψ	

The total of all charges for and in connection with all such services, labor and/or materials performed or furnished by Contractor has been paid in full to Contractor. Affiant, as Contractor or as an officer, agent, or representative of Contractor hereby acknowledges complete satisfaction of and in consideration thereof hereby absolutely and forever waives and releases all claims of every kind against Borrower, each and every party making a loan on said real property, as improved and Amerititle ("Title Insurance Company"), and their respective successors and assigns, or the property referred to above or any other property of Borrower, including, but not limited to all liens and claims of liens, that Contractor may have as a result of or in connection with the performance or furnishing of such services, labor and/or materials.

Affiant, as Contractor or as an officer, agent, or representative of Contractor, has further represented and warranted and does hereby represent and warrant that (a) Contractor has not assigned and will not assign any claim for payment or any right to perfect a lien against said property, (b) all persons or entities who have furnished services, labor, or materials to Contractor in connection with the Work have been paid all amounts to which they have or may become entitled therefore, and (c) Contractor's portion of the Work is fully completed in accordance with the final plans and specifications therefore.

Affiant does further represent that this affidavit and waiver is made and given for the purpose of inducing the construction loan lender Bank of America, N.A. to advance all remaining funds due under its construction loan to borrower and to induce Ameritile to issue its policies of title insurance (owner's and lender's) and endorsement to those policies without exception to the claims of mechanics or materialmen.

Affiant, as Contractor or as an officer, agent, or representative of Contractor, hereby agrees unconditionally to indemnify Borrower and hold Borrower harmless from and against all liability, loss, cost, or expense (including, but not limited to, attorneys' fees) now or hereafter incurred, paid, or suffered by or asserted against Borrower or any of Borrower's property because of any claim or action by Contractor with respect to the claims, liens, and rights herein waived and released or arising out of any breach or untruth of any warranty or representation herein made.

In consideration of the sum of One Dollar (\$1.00) cash in hand paid to the undersigned, the receipt and sufficiency of which is hereby acknowledged, and other benefits accruing, the undersigned does hereby waive,

release, and quitclaim in favor of (1) the owner of said real estate, as improved; (2) each and every party making a loan on said real estate, as improved; and (3) Amerititle, and their respective successors and assigns, all right or claim that the undersigned may have to a lien upon the above-described land and improvements.

Affiant represents that Affiant is duly authorized to execute this document on behalf of Contractor.

All of the provisions of this document shall bind Affiant, Contractor, and their heirs, legal representatives, successors and assigns, and shall inure to the benefit of Borrower and Borrower's heirs, legal representatives, successors, assigns and sureties.

IT IS UNDERSTOOD AND AGREED THA SERVICES RENDERED, WORK DONE AND HEREAFTER and is for all such services rendered, wo particular item indicated above.	
WITNESS the following signature and seal this	6th day of March 2007
	Klamath Custom Construction, Inc. By: / Min Hungary
Affiant	Name: Gold Alexander Title: 1815
STATE OF Oregon § COUNTY OF Klamath This instrument was acknowledged before me of	'. '/ P'
My commission expires:	Notary Public, State of Oregon Printed Name of Notary Public
CORPORATE ACKNOORSTATE OF Oregon COUNTY OF Klamath This instrument was acknowledged before me of the control of	1/4 - 1/2 / 78217
Construction, Inc. corporation.	a ORGO Corporation, on behalf of said
My commission expires: OFFICIAL STAL MARJORIE A STUART NOTARY PUBLIC- OFFICIAL COMMISSION NO. 4123311 MY COMMISSION FOR THE PROPERTY OFFICIAL STAL OFFICIAL STAL MARJORIE A STUART NOTARY PUBLIC- OFFICIAL STAL AND COMMISSION FOR THE PROPERTY OF THE PR	Notary Public, State of Oregon Printed Name of Notary Public

EXHIBIT "A"

Lot 46, Tract 1460 - GRAY ROCK PHASE 3, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon



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