



08/23/2010 08:51:31 AM

Fee: \$72.00

Prepared by and return to:

(877) 766-8244

Charles Schwab Bank

1 Mortgage Way

Mt. Laurel, NJ 08054

Mail Stop: DC

Loan No. 0051471704

MIN 100020000514717044

Parcel# R883921

ORIGINAL

MODIFICATION AGREEMENT TO DEED OF TRUST

This **Modification Agreement to Deed of Trust** (the "Agreement") is entered into this 13th day of May 2010 by and between Roger M. Davenport and Linda H. Davenport, as Trustees of the Roger and Linda Davenport Trust, UDA January 2, 2008, and their successors in trust (the "Borrower") and Charles Schwab Bank, an Organization organized and existing under the laws of the United States of America (herein referred to as "Lender").

WHEREAS, Lender is the owner and holder of that certain Deed of Trust and applicable riders dated March 21, 2008, made by Borrower, as grantor, to Lender recorded on March 24, 2008 as Document No. 2008-003643 in the Public Records of Klamath County, Oregon (the "Security Instrument"), securing a debt evidenced by a promissory note from Borrower dated March 21, 2008, in the original principal amount of \$730,800.00 (the "Note"), which Security Instrument encumbers the real property more particularly described therein; and "MERS" is a Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

WHEREAS, the Borrower, being the owner in fee simple of the Property, has requested that Lender modify the Security Instrument and the parties have mutually agreed to modify the terms thereof in the manner hereafter stated.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The last sentence in paragraph (F) of the Security Instrument is hereby deleted and the following is hereby substituted in its place:

This debt is evidenced by Borrower's note dated the same date as this Security Instrument as modified by the Modification Agreement to Adjustable Rate Note dated May 13, 2010 executed by the Borrower and the Lender (collectively, the "Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on June 1, 2040.

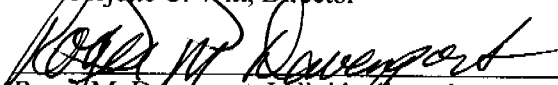
2. As of the date of execution hereof, the terms and conditions of the **FIXED/ADJUSTABLE RATE RIDER** attached to the Security Instrument are deleted in their entirety and replaced with the terms and conditions of the **FIXED/ADJUSTABLE RATE RIDER** attached hereto as Exhibit A.
3. The unpaid principal balance due under the Note as of the date of this Agreement is \$416,931.25.
4. To the extent permitted by law, Borrower warrants that Borrower has no existing right of offset, counterclaim, or other defenses against enforcement of the Note and Security Instrument and that, if any such right or defenses do exist, they are hereby waived and released.
5. This Agreement shall supersede for all purposes any and all conflicting terms and conditions provided for in the Note and Security Instrument, but shall be construed as supplemental as to any nonconflicting term or conditions stated therein. The Note and Security Instrument shall continue to evidence and secure the Borrower's indebtedness thereunder as modified herein. The parties intend and agree that this Agreement is not a novation of Borrower's loan obligation. Except to the extent provided herein, the terms of the Note and the Security Instrument remain in full force and effect.
6. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the parties hereto.
7. This Agreement contains the entire agreement of the parties hereto with regard to modification of the Note and Security Instrument and supersedes any prior written or oral agreements between them concerning the subject matter contained herein, and no party hereto has relied upon any representations except such as are specifically set forth herein. This Agreement may not be modified, changed or amended except by written instrument signed by Lender and Borrower. This Agreement shall be governed by the laws of the state in which the property encumbered by the Security Instrument is located.
8. Simultaneously with the execution hereof, the Borrower has executed and delivered to the Lender a Modification Agreement to Fixed/Adjustable Rate Note (the "Note Modification Agreement"), pursuant to which the Note has been modified. Any reference contained in the Security Instrument or the Note to the Security Instrument or the Note shall hereinafter be deemed to be a reference to the Security Instrument, as amended by this Agreement, and the Note, as amended by the Note Modification Agreement.

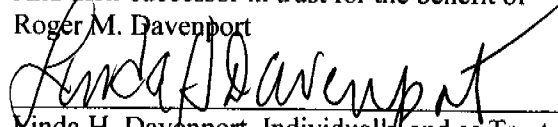
Executed on the date first above written.

Mortgage Electronic Registration Systems, Inc.
As a nominee for Charles Schwab Bank, by
PHH Mortgage Corporation, Authorized Agent

By:


Jorjette C. Witt, Director

 (Seal)
Roger M. Davenport, Individually and as Trustee of the
Roger and Linda Davenport Trust, UDA January 2, 2008
And their successor in trust for the benefit of
Roger M. Davenport

 (Seal)
Linda H. Davenport, Individually and as Trustee of the
Roger and Linda Davenport Trust, UDA January 2, 2008
And their successor in trust for the benefit of
Linda H. Davenport

STATE OF FLORIDA
COUNTY OF DUVAL

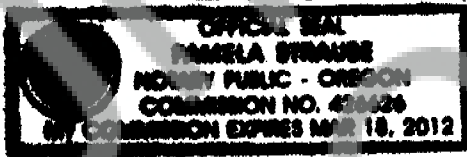
On this 3rd day of June 2010, before me, Katrina R. Smith, Notary Public in and for said state and county, personally appeared Jorjette C. Witt, personally known to me proved to me on the basis of satisfactory evidence to the Director of the MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. As nominee for Charles Schwab Bank by PHH MORTGAGE CORPORATION, AUTHORIZED AGENT that executed the within instrument, on behalf of the MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. As nominee for Charles Schwab Bank by PHH MORTGAGE CORPORATION, AUTHORIZED AGENT therein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its by-laws or resolution of its Board of Directors. Witness my hand and official seal in the state and county last aforesaid.



Katrina R. Smith
Name: Katrina R. Smith
Notary Public, State of Florida
Commission no.:
My commission expires:

STATE OF OREGON
COUNTY OF Clatsop

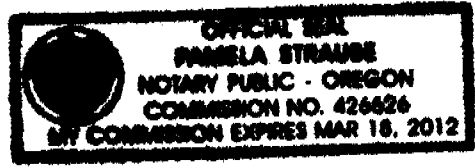
The foregoing instrument was acknowledged before me this 24th day of May 2010, by Roger M. Davenport.



Pamela Straube
Notary Public for Oregon Pamela Straube
My Commission Expires: 3-18-2012

STATE OF OREGON
COUNTY OF Clatsop

The foregoing instrument was acknowledged before me this 24th day of May 2010, by Linda H. Davenport.



Pamela Straube
Notary Public for Oregon Pamela Straube
My Commission Expires: 3-18-2012

"Exhibit A to the Modification Agreement to Deed of Trust"

FIXED/ADJUSTABLE RATE RIDER

(LIBOR One-Year Index (As Published In *The Wall Street Journal*) - Rate Caps - Ten-Year Interest Only Period)

THIS FIXED/ADJUSTABLE RATE RIDER is made this 13 day of 5/2010 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Fixed/Adjustable Rate Note (the "Note") to Charles Schwab Bank ("Lender") of the same date and covering the property described in the Security Instrument and located at:

10216 KINGBIRD COURT KLAMATH FALLS, OR 97601

[Property Address]

THE NOTE PROVIDES FOR A CHANGE IN BORROWER'S FIXED INTEREST RATE TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT THE BORROWER'S ADJUSTABLE INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES

Beginning with the Commencement Date (as that term is defined in the Note), the Note provided that Borrower will pay interest at an initial fixed rate equal to the margin described in the Note plus current Fixed Rate Index figure. The Fixed Rate Index is the Federal National Mortgage Association's required net yield for 30-year fixed rate mortgages subject to a 60-day mandatory delivery commitment, as published in *The Wall Street Journal*. The Note also provides for a change in the initial fixed interest rate to an adjustable interest rate, as follows:

B. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES

Interest will be charged on unpaid principal until the full amount of Principal has been paid. Until 06/01/2010, which is the date my permanent loan interest rate commences (the "Commencement Date"), I will pay interest at the yearly rate set forth in paragraph 1 of the Addendum to Note Construction/Permanent Loans attached to this Note. Beginning on the Commencement Date, I will pay interest at a yearly rate based upon the Index (as defined in Section 4(B) below) plus the margin set forth in Section 4(C) below. Solely for the purpose of calculating the initial permanent interest rate, the Note Holder will use the most recent Index figure available as of the date that construction is actually completed ("Actual Completion Date"), as determined in accordance with the terms of the Construction Loan Agreement of event date. I will pay interest at this rate until the first Change Date, set forth in Section 4(A). The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of June, 2015, and the adjustable interest rate I will pay may change on that day every 12th month thereafter. The date on which my initial fixed interest rate changes to an adjustable interest rate, and each date on which my adjustable interest rate could change, is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my adjustable interest rate will be based on an Index. The "Index" is the average of interbank offered rates for one-year U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure is available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index which is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding Two and Twenty-Five / Hundredths percentage points (2.250%) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

(i) **Interest-Only Period.** The "interest-only period" is the period from the Commencement Date through 05/31/2020. For the interest-only period, after calculating my new interest rate as provided above, the Note Holder will then determine the amount of the monthly payment that would be sufficient to pay the interest which accrues on the unpaid principal of my loan. The result of this calculation will be the new amount of my monthly payment.

(ii) **Amortization Period.** The "amortization period" is the period after the interest-only period. For the amortization period, after calculating my new interest rate as provided above, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 8.813% or less than 2.250%. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than two percentage (2.00%) points from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than 8.813%.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

Before the effective date of any change in my interest rate and/or monthly payment, the Note Holder will deliver or mail to me a notice of such change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

(G) Date of First Principal and Interest Payment

The date of my first payment consisting of both principal and interest on this Note (the "First Principal and Interest Payment Due Date") shall be that date which is the 10th anniversary date of the first payment due date, as reflected in Section 3(A) of the Note.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

1. Until Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument shall read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not exercise by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

2. When Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument described in Section B1 above shall then cease to be in effect, and the provisions of Uniform Covenant 19 of the Security Instrument shall be amended to read as follows:


Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

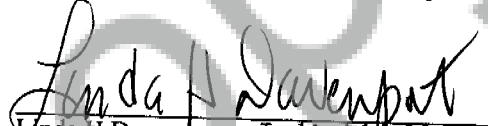
To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants in this Adjustable Rate Rider.



Roger M Davenport, Individually (Seal)
and as Trustee of the Roger and
Linda Davenport Trust, UDA January
2, 2008 and their successor in
trust for the benefit of Roger M.
Davenport



Linda H Davenport, Individually (Seal)
and as Trustee of the Roger and
Linda Davenport Trust, UDA January
2, 2008 and their successor in
trust for the benefit of Linda H.
Davenport

_____ (Seal)

_____ (Seal)

_____ (Seal)

_____ (Seal)

LEGAL DESCRIPTION
ACCT. #0051471704 - DAVENPORT

Lot 574 of RUNNING Y RESORT, PHASE 5, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

ALSO KNOWN AS:
10216 KINGBIRD COURT
KLAMATH FALLS, OR 97601