

2011-010185

Klamath County, Oregon



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09/08/2011 10:58:21 AM

Fee: \$87.00

This Document Prepared By:

Sunny Clements

U.S. Bank N.A.

4801 Frederica Street

Owensboro, KY 42301

When recorded mail to: #6731853

First American Title

Loss Mitigation Title Services 12106.1

P.O. Box 27670

Santa Ana, CA 92799

RE: MAC IVOR - MOD REC SVC

Send Tax Statements To:

[Space Above This Line For Recording Data]

Original Recorded Date: MAY 21, 2008

Loan No.: 6850075815

Original Principal Amount: \$ 292,156.00

Investor Loan No.: 526156333

**HOME AFFORDABLE MODIFICATION AGREEMENT
(Step Two of Two-Step Documentation Process)**

Borrower ("I"): ¹ DAVID S MAC IVOR AND FAWN K MAC IVOR

Lender or Servicer ("Lender"): U.S. BANK, NA

Date of first lien mortgage, deed of trust, or security deed ("Mortgage") and Note ("Note"):

MAY 21, 2008

Loan Number: 6850075815

Property Address: 7649 BOOTH ROAD, KLAMATH FALLS, OREGON 97603

Legal Description:

PORTION OF TRACT 20, JUNCTION ACRES, WILLIAMETTE MERIDIAN
KLAMATH COUNTY

Doc# 1178528

7/02/2007

("Property"):

¹ If more than one Borrower or Mortgagor is executing this document, each is referred to as "I." For purposes of this document words signifying the singular (such as "I") shall include the plural (such as "we") and vice versa where appropriate.

If my representations and covenants in Section 1 continue to be true in all material respects, then this Home Affordable Modification Agreement ("Agreement") will, as set forth in Section 3, amend and supplement (1) the Mortgage on the Property, and (2) the Note secured by the Mortgage. The Mortgage and Note together, as they may previously have been amended, are referred to as the "Loan Documents." Capitalized terms used in this Agreement and not defined have the meaning given to them in Loan Documents.

I understand that after I sign and return two copies of this Agreement to the Lender, the Lender will send me a signed copy of this Agreement. This Agreement will not take effect unless the preconditions set forth in Section 2 have been satisfied.

1. **My Representations and Covenants.** I certify, represent to Lender, covenant and agree:
 - A. I am experiencing a financial hardship, and as a result, (i) I am in default under the Loan Documents or my default is imminent, and (ii) I do not have sufficient income or access to sufficient liquid assets to make the monthly mortgage payments now or in the near future;
 - B. One of the Borrowers signing this Agreement lives in the Property as a principal residence and the Property has not been condemned;
 - C. There has been no impermissible change in the ownership of the Property since I signed the Loan Documents. A permissible change would be any transfer that the lender is required by law to allow, such as a transfer to add or remove a family member, spouse or domestic partner of the undersigned in the event of a death, divorce or marriage;
 - D. I have provided documentation for all income that I receive (and I understand that I am not required to disclose child support or alimony unless I chose to rely on such income when requesting to qualify for the Home Affordable Modification Program ("Program"));
 - E. Under penalty of perjury, all documents and information I have provided to Lender in connection with this Agreement, including the documents and information regarding my eligibility for the Program, are true and correct;
 - F. If Lender requires me to obtain credit counseling in connection with the Program, I will do so; and
 - G. I have made or will make all payments required under a trial period plan.
2. **Acknowledgements and Preconditions to Modification.** I understand and acknowledge that:
 - A. If prior to the Modification Effective Date as set forth in Section 3 the Lender determines that any of my representations in Section 1 are no longer true and correct or any covenant in Section 1 has not been performed, the Loan Documents will not be modified and this Agreement will terminate. In that event, the Lender will have all of the rights and remedies provided by the Loan Documents; and
 - B. I understand that the Loan Documents will not be modified unless and until (i) the Lender accepts this Agreement by signing and returning a copy of it to me, and (ii) the Modification Effective Date (as defined in Section 3) has occurred. I further understand and agree that the Lender will not be obligated or bound to make any modification of the Loan Documents if I fail to meet any one of the requirements under this Agreement.

3. **The Modification.** If my representations and covenants in Section 1 continue to be true in all material respects and all preconditions to the modification set forth in Section 2 have been met, the Loan Documents will automatically become modified on **FEBRUARY 1, 2011** (the "Modification Effective Date") and all unpaid late charges that remain unpaid will be waived. I understand that if I have failed to make any payments as a precondition to this modification under a trial period plan, this modification will not take effect. The first modified payment will be due on **FEBRUARY 1, 2011**.

- A. The Maturity Date will be: **JULY 1, 2049**.
- B. The modified principal balance of my Note will include all amounts and arrearages that will be past due as of the Modification Effective Date (including unpaid and deferred interest, fees, escrow advances and other costs, but excluding unpaid late charges, collectively, "Unpaid Amounts") less any amounts paid to the Lender but not previously credited to my Loan. The new principal balance of my Note will be \$ **325,420.20** (the "New Principal Balance"). I understand that by agreeing to add the Unpaid Amounts to the outstanding principal balance, the added Unpaid Amounts accrue interest based on the interest rate in effect under this Agreement. I also understand that this means interest will now accrue on the unpaid Interest that is added to the outstanding principal balance, which would not happen without this Agreement.
- C. Interest at the rate of **2.000** % will begin to accrue on the New Principal Balance as of **JANUARY 1, 2011** and the first new monthly payment on the New Principal Balance will be due on **FEBRUARY 1, 2011**. My payment schedule for the modified Loan is as follows:

Years	Interest Rate	Interest Rate Change Date	Monthly Principal and Interest Payment Amount	Estimated Monthly Escrow Payment Amount*	Total Monthly Payment*	Payment Begins On	Number of Monthly Payments
1-5	2.000%	01/01/2011	\$1,010.58	\$370.21 may adjust periodically	\$1,380.79 may adjust periodically	02/01/2011	60
6	3.000%	01/01/2016	\$1,167.73	May adjust periodically	May adjust periodically	02/01/2016	12
7	4.000%	01/01/2017	\$1,333.07	May adjust periodically	May adjust periodically	02/01/2017	12
8-39	4.750%	01/01/2018	\$1,461.30	May adjust periodically	May adjust periodically	02/01/2018	378

*The escrow payments may be adjusted periodically in accordance with applicable law and therefore my total monthly payment may change accordingly.

The above terms in this Section 3.C. shall supersede any provisions to the contrary in the Loan Documents, including but not limited to, provisions for an adjustable, step or simple interest rate.

6850075815

I understand that, if I have a pay option adjustable rate mortgage loan, upon modification, the minimum monthly payment option, the interest-only or any other payment options will no longer be offered and that the monthly payments described in the above payment schedule for my modified loan will be the minimum payment that will be due each month for the remaining term of the loan. My modified loan will not have a negative amortization feature that would allow me to pay less than the interest due resulting in any unpaid interest to be added to the outstanding principal balance.

- D. I will be in default if I do not comply with the terms of the Loan Documents, as modified by this Agreement.
- E. If a default rate of interest is permitted under the Loan Documents, then in the event of default under the Loan Documents, as amended, the interest that will be due will be the rate set forth in Section 3.C.

4. **Additional Agreements.** I agree to the following:

- A. That this Agreement shall supersede the terms of any modification, forbearance, Trial Period Plan or Workout Plan that I previously entered into with Lender.
- B. To comply, except to the extent that they are modified by this Agreement, with all covenants, agreements, and requirements of Loan Documents including my agreement to make all payments of taxes, insurance premiums, assessments, Escrow Items, impounds, and all other payments, the amount of which may change periodically over the term of my Loan.
- C. That this Agreement constitutes notice that the Lender's waiver as to payment of Escrow Items, if any, has been revoked, and I have been advised of the amount needed to fully fund my Escrow Account.
- D. That the Loan Documents are composed of duly valid, binding agreements, enforceable in accordance with their terms and are hereby reaffirmed.
- E. That all terms and provisions of the Loan Documents, except as expressly modified by this Agreement, remain in full force and effect; nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the obligations contained in the Loan Documents; and that except as otherwise specifically provided in, and as expressly modified by, this Agreement, the Lender and I will be bound by, and will comply with, all of the terms and conditions of the Loan Documents.

- F. That, as of the Modification Effective Date, notwithstanding any other provision of the Loan Documents, I agree as follows: If all or any part of the Property or any interest in it is sold or transferred without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Mortgage. However, Lender shall not exercise this option if state or federal law, rules or regulations prohibit the exercise of such option as of the date of such sale or transfer. If Lender exercises this option, Lender shall give me notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which I must pay all sums secured by the Mortgage. If I fail to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Mortgage without further notice or demand on me.
- G. That, as of the Modification Effective Date, I understand that the Lender will only allow the transfer and assumption of the Loan, including this Agreement, to a transferee of my property as permitted under the Garn St. Germain Act, 12 U.S.C. Section 1701j-3. A buyer or transferee of the Property will not be permitted, under any other circumstance, to assume the Loan. Except as noted herein, this Agreement may not be assigned to, or assumed by, a buyer or transferee of the Property.
- H. That, as of the Modification Effective Date, if any provision in the Note or in any addendum or amendment to the Note allowed for the assessment of a penalty for full or partial prepayment of the Note, such provision is null and void.
- I. That, I will cooperate fully with Lender in obtaining any title endorsement(s), or similar title insurance product(s), and/or subordination agreement(s) that are necessary or required by the Lender's procedures to ensure that the modified mortgage loan is in first lien position and/or is fully enforceable upon modification and that if, under any circumstance and notwithstanding anything else to the contrary in this Agreement, the Lender does not receive such title endorsement(s), title insurance product(s) and/or subordination agreement(s), then the terms of this Agreement will not become effective on the Modification Effective Date and the Agreement will be null and void.
- J. That I will execute such other documents as may be reasonably necessary to either (i) consummate the terms and conditions of this Agreement; or (ii) correct the terms and conditions of this Plan if an error is detected after execution of this Agreement. I understand that a corrected Agreement will be provided to me and this Agreement will be void and of no legal effect upon notice of such error. If I elect not to sign any such corrected Agreement, the terms of the original Loan Documents shall continue in full force and effect, such terms will not be modified by this Agreement, and I will not be eligible for a modification under the Home Affordable Modification Program.
- K. Mortgage Electronic Registration Systems, Inc. ("MERS") is a separate corporation organized and existing under the laws of Delaware and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, (888) 679-MERS. In cases where the loan has been registered with MERS who has only legal title to the interests granted by the borrower in the mortgage and who is acting solely as nominee for Lender and Lender's successors and assigns, MERS has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling the mortgage loan.

- L. That Lender will collect and record personal information, including, but not limited to, my name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about account balances and activity. In addition, I understand and consent to the disclosure of my personal information and the terms of the Trial Period Plan and this Modification Agreement by Lender to (a) the U.S. Department of the Treasury; (b) Fannie Mae and Freddie Mac in connection with their responsibilities under the Home Affordability and Stability Plan; (c) any investor, insurer, guarantor or servicer that owns, insures, guarantees or services my first lien or subordinate lien (if applicable) mortgage loan(s); (d) companies that perform support services for the Home Affordable Modification Program and the Second Lien Modification Program; and (e) any HUD certified housing counselor.
- M. I agree that if any document related to the Loan Documents and/or this Agreement is lost, misplaced, misstated, inaccurately reflects the true and correct terms and conditions of the loan as modified, or is otherwise missing, I will comply with the Lender's request to execute, acknowledge, initial and deliver to the Lender any documentation the Lender deems necessary. If the original promissory note is replaced, the Lender hereby indemnifies me against any loss associated with a demand on the original note. All documents the Lender requests of me under this Section 4.N. shall be referred to as "Documents." I agree to deliver the Documents within ten (10) days after I receive the Lender's written request for such replacement.
- N. If my Loan Documents govern a home equity loan or line of credit, then I agree that as of the Modification Effective Date, I am terminating my right to borrow new funds under my home equity loan or line of credit. This means that I cannot obtain additional advances, and must make payments according to this Agreement. (Lender may have previously terminated or suspended my right to obtain additional advances under my home equity loan or line of credit, and if so, I confirm and acknowledge that no additional advances may be obtained.)

6850075815

In Witness Whereof, the Lender and I have executed this Agreement.
U.S. BANK, NA

Christine Instatt
By: _____ -Lender
3/10/11
Date

David S Mac Ivor
DAVID S MAC IVOR _____ -Borrower
Date 2/4/11

Fawn K Mac Ivor
FAWN K MAC IVOR _____ -Borrower
Date 2/9/11

Date _____ -Borrower

Date _____ -Borrower

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[Space Below This Line For Acknowledgment]

BORROWER ACKNOWLEDGMENT

State of OREGON

County of Klamath

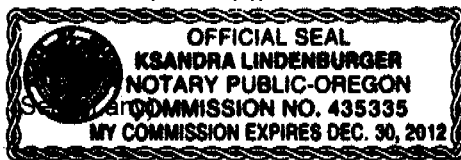
The instrument was acknowledged before me on 2-4-11 (date) by

DAVID S MAC IVOR AND FAWN K MAC IVOR

SJC Default Resolution Specialist

Sunny Clements

(name(s) of person(s))



Ksandra Lindenburg
(Signature of notarial officer)

Assistant Manager
Title (and Rank)

My commission expires: 12-30-2012

LENDER ACKNOWLEDGMENT

State of _____

County of _____

This instrument was acknowledged before me on _____ (date) by

GREGG SPEER as SVP of _____

(Seal, if any)

(Signature of notarial officer)

Title (and Rank)

My commission expires: _____

6850075815

[Space Below This Line For Acknowledgment]

BORROWER ACKNOWLEDGMENT

State of OREGON

County of _____

The instrument was acknowledged before me on _____ (date) by

DAVID S MAC IVOR AND FAWN K MAC IVOR

(name(s) of person(s))

(Signature of notarial officer)

(Seal, if any)

Title (and Rank)

My commission expires: _____

LENDER ACKNOWLEDGMENT

State of KY

County of Daviess

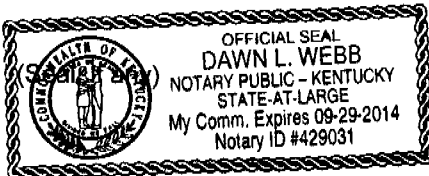
This instrument was acknowledged before me on 3/10/11 (date) by

KHRISTINA ONSTOTT

as SVP

of

US Bank



Dawn L Webb
(Signature of notarial officer)

Notary
Title (and Rank)

My commission expires: 9/29/14

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Placer

On 2/9/11

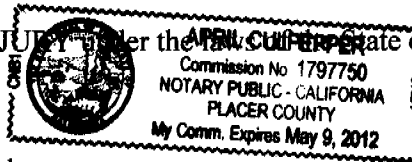
before me, April Culpepper a Notary Public

(Here insert name and title of the officer)

personally appeared Fawn K Mac Ivor

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

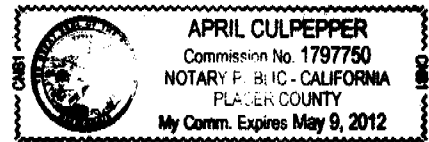
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Hamp. Logos.
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date 2/9/11

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT "A"
LEGAL DESCRIPTION

A portion of Tract 20 of JUNCTION ACRES, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows:

Beginning at an iron pin 37.4 feet Westerly from an iron pin which marks the Southeast corner of Tract 20 of JUNCTION ACRES, as filed in the County Clerk's office of Klamath County, Oregon, and running thence West a distance of 150 feet along the South line of Tract 20, which line is also the North right of way line of the County Road, to an iron pin; thence Northerly parallel to the line between Tract 20 and 21 a distance of 464.8 feet to an iron pin, thence Easterly parallel to the South line of Tract 20 a distance of 150 feet to an iron pin, thence South along a line parallel to the line between Tract 20 and 21, 464.8 feet, more or less to the point of beginning, situate in the SW1/4 NW1/4 of Section 7, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.