

ESCROW INSTRUCTIONS FOR THE MODIFICATION OF NOTE SECURED BY DEED OF TRUST

Date: <f3>

Escrow No. <f48>

To: <f47>
<f50>
<f51>,

ESCROW DEPARTMENT, as Escrow Holder (Not a Public Escrow Service):

On or before <f30>, the undersigned parties agree to modify an existing \$<f336> Note secured by that certain <f65> Deed of Trust recorded in <f63> County of <f32> as instrument no. <f356>, affecting that certain real property described as: <f18>, <f19>

Legal Description: <f189> <f190> <f191> <f192> <f193> <f194>

You are instructed to draw a **Modification of Note Secured by Deed of Trust** hereinafter described below as “Loan Modification” together with any additional instruments and to accept any funds necessary to enable you to comply with these instructions. Said Loan Modification, properly executed by the parties, is to be delivered to <f88> for recordation in the <f63> County Recorders Office when said Title Company can issue their 110.6 endorsement thereto. Said Loan Modification is to be delivered to the Beneficiary or his designated agent upon receipt from the County Recorders Office.

Terms of Loan Modification:

In consideration of the foregoing and other valuable consideration, the parties herein do hereby amend and modify the Note thereinbefore described as follows:

Remaining Terms Unmodified:

Except as modified herein, the Note, Deed of Trust, and other Loan Documents shall remain unaffected, unchanged and unimpaired by reason of these Instructions.

Prior Encumbrances:

Trustor agrees to pay any and all taxes, assessments, bonds and/or any encumbrances of record including the Note to be modified which become due to close this escrow.

Dual Agency Acknowledgment:

All parties acknowledge and agree that Broker is the agent for both in arranging this Loan Modification and that when said Loan Modification is arranged, Broker’s agency will cease and that Broker may continue to as agent for Beneficiary in servicing the Note.

General Provisions:

The General Provisions, attached hereto and made a part hereof, are approved and agreed to by all the undersigned. Time is of the essence of these instructions. If escrow is not in a condition to close by the above “time limit date”, and demand of cancellation is received by you from any principal to this escrow after said date, you shall act in accordance with paragraph 7 of the General Provisions. If no demand for cancellation is made, proceed to close this escrow when the principals have complied with these instructions.

Arranged by Broker:

This Loan Modification has been arranged by <f80>, a licensed California real estate Broker. Trustor agrees to pay a commission to Broker for its services in the amount of \$ and all costs, expenses and disbursements as per the Mortgage Loan Disclosure Statement.

Attorney Sole Agent for Beneficiary:

Trustor acknowledges that if Attorney’s fees are being charged as part of the financing costs, that these costs are intended solely as reimbursement to the Beneficiary for any legal fees incurred, as the attorney represents the interests of the Beneficiary only.

Claims and Release (Estoppel Agreement):

Trustor acknowledges that Beneficiary requires that as a condition of Beneficiary entering into this Loan Modification that Trustor, for review and consideration by Beneficiary, sets forth and now makes or asserts and claim, action, dispute, or demand, including and claim concerning Beneficiary liability which Trustor has or may have against Beneficiary. It is the intention that this Loan Modification shall resolve or waive all outstanding claims and disputes, if any, between Beneficiary and Trustor.

In consideration of Beneficiary's entering into this Loan Modification and for other good and valuable consideration, the receipt of which is hereby acknowledged, Trustor agrees as follows:

- a.) Trustor and its agents, employees, attorneys, affiliated, successors and assigns, hereby, effective as if the date of this Loan Modification, absolutely release and forever, discharge Beneficiary and their agent, officers, directors, trustees, employees, successors and assigns, and each of them, of and from and all claims, demands, damages, liabilities, causes of action, attorney's fees, costs and expenses of every nature whether known or unknown and whether known or unknown whether anticipated or unanticipated, which Trustor now owns or holds or at any time, has owned or held, by reason of any matter, fact or thing done, omitted or suffered to be done prior to the date of this Loan Modification, either directly or indirectly, by reason of or arising out of (1) the making of or administration of the Loan; (2) the sale transaction of which gave rise to the Loan; (3) any other transaction relating to the Loan.
- b.) Trustor warrants and represents that the entire claims which are subject of the release are owned by Trustor and no claim, or any part thereof, has been assigned to or is owned by anyone other than Trustor and there is no action or litigation pending or instituted involving such claims.
- c.) Trustor acknowledges that this release is voluntary and without any duress or undue influence, and is given as part of the consideration for Beneficiary's accommodation of Trustor's request for Loan Modification.
- d.) Trustor hereby waives and relinquishes all rights and benefits afforded under section 1542 of the California Civil Code and acknowledges that Trustor may hereafter discover fact different than or in addition to those which Trustor now knows or believes to be true with respect to the claims, demands, damages liabilities, causes of action, attorney's fees, costs and expenses above released and agrees that Trustor's release shall be and remain effective in all respects, notwithstanding such different or additional facts. Section 1542 of the Civil Code of the State of California reads as follows:

"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 know by him must have materially affected his settlement with the debtor."

ARBITRATION OF DISPUTES

All controversies or claims between buyer, seller and company arising out of or relating to this escrow, including but not limited to the arranging thereof, documents relating thereto, and the servicing and enforcement thereof, shall be determined by arbitration in accordance with applicable rules of the American Arbitration Association. Judgement on the arbitrator's award may be entered in any court having jurisdiction. Without waiving a party's right to arbitration any party may apply to any court of competent jurisdiction for the following:

- (a) To enforce the assignment of rents provision contained in any Deed of Trust securing the loan, including the appointment of a receiver.
- (b) To secure possession of the real property subject to the Deed of Trust by an action for unlawful detainer. Any proceeding for judicial foreclosure shall not be subject to arbitration. The exercise of any private default remedies under the Uniform Commercial Code shall not constitute a waiver of this agreement to arbitrate nor shall they be deemed inconsistent with arbitration.

NOTICE: BY INITIALING BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSES TO HAVE THE DISPUTE LITIGATED IN A COURT OF JURY TRIAL. BY SIGNING BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Initial Here

Initial Here

Initial Here

Initial Here

On or before <f30> we will hand the documents and funds called for. In the event escrow cancels, either verbally or in writing, Trustor agrees to pay any costs born by the Broker and or Escrow Agent. Unless expressed in writing by either party all documents will be sent by U.S. Mail.

I have read, approve, agree and received a copy of these instructions.

<f5> <f6> <f7> - Trustor/Date

<f10> <f11> <f12> - Trustor/Date

<f38> - Beneficiary/Date

<f39> - Beneficiary/Date

ESC_MOD3.DOC