

# UNOFFICIAL COPY



Assessor's Parcel No: 26-06-218-023

Doc#: 0905817048 Fee: \$44.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 02/27/2009 03:07 PM Pg: 1 of 5

Prepared By And After Recording, Please Return To:  
Allison Martin, Document Control Dept Mgr  
MGC Mortgage, Inc.  
7195 Dallas Parkway  
Plano, Texas 75024  
BC: 632748

## MODIFICATION AGREEMENT

STATE OF ILLINOIS §  
  §  
COUNTY OF COOK §

KNOW ALL MEN BY THESE PRESENTS:

THIS MODIFICATION AGREEMENT (this "Agreement") is made and entered into effective as of December 1, 2008 (the "Effective Date"), by and between HOMERO ESQUIVEL, an unmarried person, a resident of Cook County, Illinois ("Borrower") and LNV CORPORATION, a Nevada corporation, 6000 Legacy Drive, Plano, Texas 75024 ("Lender").

### WITNESSETH:

A. Platinum Home Mortgage Corporation ("Original Lender") made a loan to Borrower, evidenced by that certain Note (the "Note"), dated May 27, 2003, in the stated principal amount of \$68,000.00 (the "Loan"), executed and delivered by Borrower and payable to the order of Original Lender; said Note being secured by, among other things, that certain Mortgage (the "Mortgage"), dated as of May 27, 2003, executed and delivered by Borrower to Mortgage Electronic Registration Systems, Inc. ("MERS") acting as nominee for the benefit of Original Lender, which encumbers, among other things, certain real property located in Cook County, Illinois, commonly known as 8906 South Baltimore Avenue, Chicago, Illinois 60617, and more particularly described below, and all improvements and fixtures thereon (the "Property"), recorded June 5, 2003, as Document No. 0315627070 and re-recorded October 1, 2003, as Document No. 0327427192, in the Clerk's Office of Cook County, Illinois (the Note, the Mortgage and the other documents executed and/or delivered in regard to the Loan are collectively referred to in this Agreement as the "Loan Documents").

B. The Property is legally described as follows:

✓ LOT 3 IN BLOCK 40 IN SOUTH CHICAGO A SUBDIVISION BY THE CALUMET AND CHICAGO CANAL AND DOCK COMPANY OF THE EAST 1/2 OF THE WEST 1/2 AND PARTS OF THE EAST FRACTIONAL 1/2 OF FRACTIONAL SECTION 6 NORTH OF THE INDIAN BOUNDARY LINE AND THAT PART OF FRACTIONAL SECTION 6 SOUTH OF THE INDIAN BOUNDARY LINE LYING NORTH OF THE MICHIGAN SOUTHERN RAILROAD AND FRACTIONAL SECTION 5 NORTH OF THE INDIAN BOUNDARY ALL IN TOWNSHIP 37 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

C. MERS, as nominee for Original Lender, did grant, assign and transfer its interest in the Loan, the Note, and the Mortgage to NetBank, Inc., by that certain Assignment of Mortgage, dated January 5, 2007, recorded as Document No. 0703943031 of the Clerk's Office of Cook County, Illinois. Lender acquired the Loan, the Note, the Mortgage, and the lender's rights under any and all other Loan Documents pursuant to that certain Assignment of Mortgage, effective as of May

S-4  
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29, 2008, dated October 23, 2008 and recorded October 30, 2008 as Document No. 0830403004 in the Clerk's Office of Cook County, Illinois.

D. Lender and Borrower desire to modify, but not replace, the Note and the Mortgage and any other Loan Documents as set forth herein.

**NOW, THEREFORE**, for and in consideration of the premises, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed by each of the parties hereto, the parties hereto hereby agree as follows:

1. **Summary of Modifications.** The Loan, the Note, the Mortgage and the other Loan Documents are hereby modified as follows, effective as of December 1, 2008:

A. Concurrently with the execution and delivery hereof, Borrower is paying to Lender the sum of \$2,400.00, which will be applied as follows: \$501.23 to Cook County for taxes due on October 1, 2008; \$107.45 to late fees; and \$1,791.32 to escrow advances.

B. Borrower and Lender agree that as of the Effective Date (i) the unpaid principal balance of the Loan is \$64,164.92; (ii) the amount of accrued and unpaid interest on the Loan is \$8,689.00; (iii) the amount of the negative escrow balance on the Loan is \$3,082.95; (iv) the amount of late charges due in regard to the Loan is \$107.45; (v) the amount of taxes due on the Loan is \$501.23; and (vi) the amount of expenses is \$650.00. Lender and Borrower agree to capitalize the accrued and unpaid interest, negative escrow balance, late charges, and recoverable fees as set forth above, and add such amounts to the principal balance of the Loan. Accordingly, the principal balance of the Loan and the Note, as of the Effective Date, after so capitalizing such amounts, and after crediting the payment set forth in paragraph A above is \$74,795.55.

C. The Note is hereby modified (but not replaced) to provide as follows:

- (i) the maturity date thereof is changed from June 1, 2033 to December 1, 2038, subject to the terms of the Note and/or the Mortgage;
- (ii) the interest rate applicable to the Loan and the Note remains the same as set forth in the Note;
- (iii) the regular monthly principal and interest payment due thereon starting with the payment due January 1, 2009 is modified to be \$472.76;
- (iv) in addition, and simultaneously with Borrower's monthly payment of principal and interest, Borrower shall pay to Lender a monthly escrow payment of \$274.42 (subject to annual adjustment), which amount shall be held by Lender, subject to Lender's rights under the Loan Documents, in escrow for the payment of insurance and real estate taxes relating to the Property;
- (v) therefore, Borrower's monthly payment due and payable to Lender shall be \$747.18 for the period commencing with the payment due on January 1, 2009; and
- (vi) Borrower and Lender agree that a monthly payment as described above is due and payable on the Note on the first day of each month during the remaining term of the Loan and pursuant to the terms and conditions of the Note, as modified herein.

D. The Mortgage is also hereby modified to provide that, to the extent not prohibited by applicable law, if any of the Property which remains encumbered by the Mortgage is sold, assigned, transferred or conveyed, in each case, without the prior written consent of Lender, which consent may be granted or withheld at the sole discretion of Lender, such sale, assignment, transfer or conveyance will constitute a default under the Loan Documents, and will entitle Lender to exercise any and all of its rights and remedies as a result of such default, including, without limitation, accelerating the maturity date of the Loan and the Note and declaring all amounts due in regard to the Loan and the Note to be wholly due and payable.

E. All payments due on the Loan shall be paid to Lender at MGC Mortgage, Inc., Attention: Loan Servicing, 15770 Dallas Parkway, LB 62, Dallas, TX 75248, or such other address as Lender may hereafter from time to time designate in a written notice to Borrower.

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2. AS A MATERIAL INDUCEMENT TO LENDER TO ENTER INTO THIS AGREEMENT, EACH BORROWER, ON BEHALF OF HIMSELF AND HERSELF AND HIS AND HER SUCCESSORS, ASSIGNS, HEIRS, LEGAL REPRESENTATIVES AND CONSTITUENTS (WHETHER OR NOT A PARTY HERETO) (BORROWER AND SUCH SUCCESSORS, ASSIGNS, HEIRS, LEGAL REPRESENTATIVES AND CONSTITUENTS BEING REFERRED TO HEREIN COLLECTIVELY AND INDIVIDUALLY, AS "OBLIGORS, ET AL."), HEREBY FULLY, FINALLY AND COMPLETELY RELEASE AND FOREVER DISCHARGE ORIGINAL LENDER, LENDER AND THEIR RESPECTIVE SUCCESSORS, ASSIGNS, AFFILIATES, SUBSIDIARIES, PARENTS, OFFICERS, SHAREHOLDERS, DIRECTORS, EMPLOYEES, ATTORNEYS AND AGENTS, PAST, PRESENT AND FUTURE, AND THEIR RESPECTIVE HEIRS, PREDECESSORS, SUCCESSORS AND ASSIGNS (COLLECTIVELY AND INDIVIDUALLY, "LENDER, ET AL.") OF AND FROM ANY AND ALL CLAIMS, CONTROVERSIES, DISPUTES, LIABILITIES, OBLIGATIONS, DEMANDS, DAMAGES, EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES), DEBTS, LIENS, ACTIONS AND CAUSES OF ACTION OF ANY AND EVERY NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY THEREOF RELATING TO THE LOAN, AND WAIVE AND RELEASE ANY DEFENSE, RIGHT OF COUNTERCLAIM, RIGHT OF SET-OFF OR DEDUCTION TO THE PAYMENT OF THE INDEBTEDNESS EVIDENCED BY THE NOTE AND/OR THE MORTGAGE OR ANY OTHER LOAN DOCUMENT WHICH OBLIGORS, ET AL. NOW HAVE OR MAY CLAIM TO HAVE AGAINST LENDER, ET AL., OR ANY THEREOF, ARISING OUT OF, CONNECTED WITH OR RELATING TO ANY AND ALL ACTS, OMISSIONS OR EVENTS OCCURRING PRIOR TO THE EXECUTION OF THIS AGREEMENT.

3. As an additional material inducement to Lender to enter into this Agreement, Borrower hereby represents and warrants to Lender that:

(a) the Loan Documents, all as modified hereby, are in full force and effect and are not in default and Borrower has no defense, counterclaim or offset to the Loan or any of the Loan Documents, as all are modified hereby;

(b) the representations and warranties of Borrower set forth in the Loan Documents are true and correct in all material respects as of the date hereof and are hereby reaffirmed as if such representations and warranties had been made on the date hereof and shall continue in full force and effect; and

(c) this Agreement constitutes the legal, valid and binding obligation of Borrower enforceable against Borrower in accordance with the terms hereof.

The representations and warranties of Borrower contained in this Agreement and in the Loan Documents shall survive the consummation of the transactions contemplated by this Agreement.

4. In addition to the documents, instruments and acts described in this Agreement and which are to be executed and/or delivered and/or taken pursuant to this Agreement, Borrower agrees to execute and deliver from time to time upon request by Lender such other documents and instruments, and take such other action, as Lender may request or require to more fully and completely evidence and carry out the transactions contemplated by this Agreement.

5. Borrower hereby affirms, confirms, ratifies, renews and extends the debts, duties, obligations, liabilities, rights, titles, security interests, liens, powers and privileges created or arising by virtue of the Loan Documents, as each is amended hereby, until all of the indebtedness and obligations relating to the Loan have been paid and performed in full. Borrower confirms that Lender has not released, forgiven, discharged, impaired, waived or relinquished, and does not hereby release, forgive, discharge, impair, waive or relinquish any rights, titles, interests, liens, security interests, collateral, parties, remedies or any other matter with respect to the Loan, or any of the Loan Documents, but rather Lender is expressly retaining and reserving the same to their fullest extent.

6. This Agreement shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns. Nothing contained in this paragraph shall act to amend or modify any of the provisions of the Loan Documents which restrict or prohibit assignment or transfer.

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7. Neither this Agreement nor any provision of the Loan Documents may be waived, modified or amended, except by an instrument in writing signed by the party against which the enforcement of such waiver, modification or amendment is sought, and then only to the extent set forth in such instrument.

8. THIS AGREEMENT AND THE OTHER DOCUMENTS ENTERED INTO IN REGARD TO THE LOAN REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES.

9. This Agreement may be executed in multiple counterparts.

10. BORROWER AND LENDER, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY WAIVE TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH THIS AGREEMENT, THE NOTE OR ANY OF THE OTHER LOAN DOCUMENTS, WHICH WAIVER IS INFORMED AND VOLUNTARY. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER HEREBY WAIVES ANY AND ALL RIGHTS TO REQUIRE MARSHALING OF ASSETS BY LENDER, WITH RESPECT TO THEIR RESPECTIVE RIGHTS UNDER THE LOAN DOCUMENTS OR OTHERWISE.

EXECUTED as of the day and year first above written.

Borrower:

Homero Esquivel  
Homero Esquivel

Lender: LNV CORPORATION, a Nevada corporation

Jacob Cherner  
Jacob Cherner, Executive Vice President

STATE OF KENTUCKY §  
COUNTY OF SCOTT §

This instrument was acknowledged before me on this 7<sup>th</sup> day of January, 2009, by Homero Esquivel.

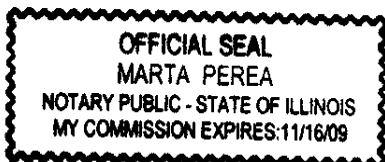
My Term expires: 11/16/09

Marta Perea  
Notary Public

~~STATE OF TEXAS §  
COUNTY OF COLLIN §~~

~~Before me, on this 7<sup>th</sup> day of January, 2009, personally appeared Jacob Cherner, Executive Vice President of LNV CORPORATION, a Nevada corporation, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.~~

~~Marta Perea  
Notary Public  
My Commission expires: 11/16/09~~

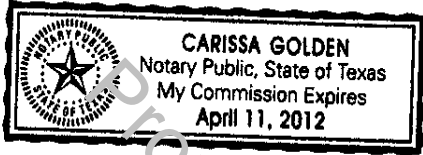


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STATE OF TEXAS     §  
                                  §  
COUNTY OF COLLIN   §

Before me, on this 14<sup>th</sup> day of January, 2009, personally appeared Jacob Cherner, Executive Vice President of LNV CORPORATION, a Nevada corporation, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Carissa Golden  
\_\_\_\_\_  
Notary Public  
My Commission expires: 4/11/2012



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