

UNOFFICIAL COPY

Loan No. 2461853

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of 19, between Ocwen Federal Bank FSB, a federal savings bank, ("Ocwen") and Cynthia Guerra and Andria Guerra (the "Borrower" or "you"). The Agreement is as follows:



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RECITALS

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A. On or about February 11, 1991, Beverl predecessor of Ocwen loaned you \$91,759.00 (the "Loan"), which Loan was evidenced by a note dated February 11, 1991, payable to the order of Beverly Bank (the "Original Note").

B. The Original Note is secured by a Deed of Trust, Mortgage, or Deed to Secure Debt dated February 11, 1991 and recorded among the official records of Cook County, as document No. 91076832 in Book 67-00 Page (the "Original Mortgage").

C. The Original Mortgage grants Ocwen a security interest in the real property owned by you and described in the Original Mortgage (the "Property") and allows Ocwen to enforce remedies, including foreclosure of the Property, upon occurrence of a default, including your failure to make payments as agreed under the Original Note.

D. Ocwen is now the owner of the Original Note and Original Mortgage (the "Loan Documents") and you agree that the Loan Documents are the only agreements and documents now in effect with respect to the Loan. Any other understandings, agreements, or arrangements which may have existed pertaining to the Loan are now terminated.

E. You are now in default under the terms of the Loan Documents and Ocwen is entitled to demand from you, and to collect, payment in full of 151,440.90 Dollars (\$) (your "Total Debt").

F. You have requested that Ocwen refrain from exercising the rights and remedies granted to Ocwen by the Loan Documents and, instead, agree to modify the terms of your obligations under the Loan Documents pursuant to the terms and conditions set forth in this Agreement.

G. Pursuant to your request to modify your obligations under the Loan Documents, and in consideration of the promises, conditions, and terms set forth below; Ocwen has agreed to adjust conditionally the interest rate of the Original Note, the repayment terms of the Original Note, and the total amount due with respect to the Original Note. Ocwen has also agreed to reinstate conditionally the Loan as current and not in default as of the Effective Date, as defined below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals which you agree to be true and correct and a part of this Agreement, the sum of N. A. Dollars (\$) cash in hand paid to Ocwen as a Modification Fee, and other good and valuable consideration, the receipt and sufficiency of which you and Ocwen acknowledge, you and Ocwen agree as follows:

1. **Validity of the Loan Documents:** Except as expressly modified by this Agreement, the terms and conditions of the Loan Documents remain in full force and effect and the Original Mortgage shall continue to secure the Original Note and this Agreement.

2. **The Effective Date:** August 1, 1998, shall be the effective date of this Agreement (the "Effective Date").

*Return to:
Box 167*

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3. **Modification of Your Obligations:** Your obligations under the Loan Documents are conditionally modified as follows:

a. **New Monthly Payment:** Your new total monthly payment amount, which includes your principal, interest, and escrow payments, as discussed below, and which may be adjusted from time to time as your escrow payment changes, will initially be \$1,329.56 Dollars (\$) () ("New Monthly Payment").

b. **Payment Term:** Your first New Monthly Payment will be due on August 1, 1998, with all of your subsequent New Monthly Payments due on the first day of each month following this date and continuing for () years until August 1, 2028, (the "New Maturity Date") when your remaining New Principal Balance, as defined below, including any additional interest, charges, advances, and other fees and costs related to the Loan which Ocwen has not yet collected, will be due.

c. **Late Charges:** In the event your New Monthly Payment has not been received by Ocwen within ten (10) days of the first day of the month when such New Monthly Payment is due, you agree to pay a late charge of five percent (5%) of the total New Monthly Payment due.

d. **New Principal Balance:** The new principal balance you now owe with respect to the Loan is 131,000.00 Dollars (\$) () (the "New Principal Balance").

e. **Interest Rate:** From the Effective Date of this Agreement, you will owe interest on the unpaid New Principal Balance at an annual rate equal to eight percent (8%).

f. **Principal and Interest Payments:** Your New Monthly Payment will include a monthly payment of principal and interest in the amount of 961.23 Dollars (\$) ().

g. **Escrow Payments:** As further described below, your New Monthly Payment will also include an initial monthly escrow payment, in the amount of 368.33 Dollars (\$) ().

4. **Right to Prepay:** You have the right to prepay the Loan at any time, in whole or in part, without penalty or premium. Borrower shall deposit \$799.81 to escrow upon signature.

5. **Escrow Account:** Subject to applicable law, Ocwen shall maintain an escrow account (the "Escrow Account") to which you shall pay to Ocwen on the day monthly payments are due a sum for yearly taxes and assessments; yearly hazard, property or flood insurance premiums; and other costs necessary to preserve Ocwen's security interest in the Property ("Escrow Costs"). The amount of your monthly payment to the escrow account will equal 1/12 of Ocwen's estimate of the annual Escrow Costs and may change from time to time as Escrow Costs change. Your Escrow Account balance is, as of the Effective Date, -7,128.41 Dollars (\$) ().

In accordance with federal law (RESPA), Ocwen may hold a reserve in an amount not to exceed 1/6th of the total annual projected Escrow Costs, unless the mortgage documents or state law specifies a lower amount. Annually, it will be Ocwen's responsibility to analyze the Escrow Account. If the Funds held by Ocwen exceed the amounts permitted to be held by applicable law, Ocwen shall account to you for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Ocwen are not sufficient to pay the Escrow Costs when due, Ocwen may notify you in writing, and, in such case, you shall pay to Ocwen the amount necessary to make up the deficiency. You shall make up the deficiency in no more than twelve monthly payments.

6. **Insurance Requirements:** As a condition of this Agreement, you shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire and any other hazards, including floods or flooding, in an amount not less than the New Principal Balance. The insurance carrier providing the insurance shall be chosen by you subject to Ocwen's approval which shall not be unreasonably withheld. All insurance policies and renewals shall reference Ocwen's loan number and include a standard mortgagee clause for the benefit of:

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Ocwen Federal Bank FSB
 Its Successors and/or Assigns
 The Forum, Suite 409
 1675 Palm Beach Lakes Blvd
 West Palm Beach, FL 33401

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7. Completion of this Agreement: If you fully comply with all of the terms and provisions of this Agreement and the terms and provisions of the Loan Documents and pay the New Principal Balance in full with accrued interest on or before the New Maturity Date, Ocwen will discharge your obligations under the Loan Documents and this Agreement. Moreover, for as long as you fully comply with the terms and provisions of the Loan Documents and this Agreement, Ocwen will, until the New Maturity Date, conditionally reinstate your Loan as current and shall not exercise any of its collection rights or remedies against you which are permitted under the Loan Documents, this Agreement, or at law or in equity.

8. Additional Events of Default: Without limiting the other events of default set forth in the Loan Documents, you will be in default under this Agreement and under the Loan Documents upon the occurrence of any one or more of these events:

- a. If any bankruptcy or insolvency proceeding is filed by or against you.
- b. Any representation or warranty made by you in the Loan Documents, this Agreement, or any initial agreement proves to be false or misleading in any respect.
- c. You fail to make the New Monthly Payments as required by this Agreement.
- d. You fail to make a lump sum payment to cover Escrow Charges when requested by Ocwen.
- e. You sell or convey any interest in the Property without Ocwen's prior written consent.
- f. Breach of any of the terms or provisions of this Agreement.

9. Consequences of Your Default: If you default under this Agreement or the Loan Documents after the Effective Date, (your "Default") Ocwen may, in addition to the remedies provided by the Loan Documents, terminate this Agreement and, subject only to applicable law, institute or resume any foreclosure or collection proceedings without prejudice for having accepted any payments, including but not limited to the New Monthly Payments, under this Agreement and exercise any of its rights and remedies against you under the Loan Documents and/or this Agreement. Moreover, upon your Default, Ocwen may, at its option, accelerate the entire Total Debt due under the Original Note, accrued interest thereon, and any other costs or advances; and elect to account for and apply all payments, including but not limited to the New Monthly Payments, you may have made from the Effective Date until the time of your Default pursuant to the terms of the Original Note.

10. Your Representations and Warranties: As a material condition to Ocwen's willingness to enter into this Agreement, you represent and warrant the following facts:

- a. You represent and warrant that you are indebted to Ocwen pursuant to the terms of the Loan Documents and this Agreement, that your Total Debt is accurately set forth in this Agreement, and that you have no claims, actions, causes of action, statute of limitations or other defenses, counterclaims, or setoffs of any kind which you can assert against Ocwen in connection with the making, closing, administration, collection, or enforcement by Ocwen of the Loan Documents, this Agreement, or any related agreement.
- b. You represent and warrant that you have no intention to file or agree to any bankruptcy proceeding at any time after the Effective Date and that you believe the terms of this Agreement are sufficient to allow you to comply with your obligations under the Loan Documents and this Agreement. In the event that you

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are or become the subject of a bankruptcy proceeding, you consent to relief from any automatic stay which may be imposed and which would, otherwise, prevent Ocwen from proceeding with foreclosure in the event you are in Default pursuant to the Loan Documents and/or this Agreement.

c. You represent and warrant that all statements you have made to Ocwen, whether written or oral, all financial information and releases you have provided to Ocwen regarding you or the Property, and all information provided pursuant to any initial agreement you may have signed with Ocwen, remain valid and were true as of the date made and as of the Effective Date.

d. You represent and warrant that you understand that this Agreement is legally binding and that it affects your rights. You have obtained, or have had the opportunity to obtain, independent legal counsel concerning the meaning and importance of this Agreement. You further represent and warrant that you are signing this Agreement voluntarily and with full understanding of its contents and meaning.

11. YOUR RELEASE OF OCWEN: IN THE EVENT THAT YOU HAVE ANY CLAIMS, ACTIONS OR CAUSES OF ACTION, STATUTE OF LIMITATIONS OR OTHER DEFENSES, COUNTERCLAIMS OR SETOFFS OF ANY KIND WHICH YOU NOW OR HEREAFTER MAY ASSERT AGAINST OCWEN IN CONNECTION WITH THE MAKING, CLOSING, ADMINISTRATION, COLLECTION OR THE ENFORCEMENT BY OCWEN OF THE LOAN DOCUMENTS, THIS AGREEMENT OR ANY OTHER RELATED AGREEMENTS, THEN BY EXECUTING THIS AGREEMENT YOU FOREVER IRREVOCABLY WAIVE AND RELINQUISH THEM. THE TERM "Ocwen" SHALL INCLUDE FOR THE PURPOSES OF THIS AGREEMENT, BUT SHALL NOT BE LIMITED TO, OCWEN'S PRESENT AND FORMER OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS AND ALL PRIOR AND SUBSEQUENT PARTIES IN INTEREST, INCLUDING BUT NOT LIMITED TO OCWEN'S PREDECESSOR IN INTEREST.

FOR CALIFORNIA BORROWERS ONLY - In connection with the general release set forth above, you hereby waive and relinquish all rights and benefits afforded under the provisions of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR [OCWEN] DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

12. Final Agreement: This Agreement may not be supplemented, changed, waived, discharged, eliminated, modified or omitted except by written document executed by both you and Ocwen. This Agreement constitutes the entire agreement between you and Ocwen, supersedes all previous negotiations and discussions between you, Ocwen, and/or Ocwen's predecessors in interest, and neither parole evidence nor any prior or other agreement shall be permitted to contradict or vary its terms. There are no promises, terms, conditions, or obligations other than those contained in this Agreement.

13. No Waiver: By executing this Agreement, Ocwen is not waiving and shall not be deemed to have waived any of your defaults under the Loan Documents nor any of Ocwen's rights or remedies against you. Moreover, any waiver by Ocwen of any breach or any provision of this Agreement or the Loan Documents or any related agreement or its failure to exercise any right or remedy under this Agreement, the Loan Documents or any related agreement shall not be deemed a continuing waiver or a waiver of any other or subsequent breach, whether of the same or any other provision, and shall not in any way impair any of Ocwen's rights or remedies.

14. No Novation: You expressly agree that this Agreement is not a new loan from Ocwen but simply the modification of your existing obligations under the Loan Documents. Neither you nor Ocwen have any intention to extinguish or discharge the indebtedness or the liens evidenced by the Loan Documents.

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15. **Choice of Law and Severability:** This Agreement shall be governed by and construed under the laws of the State where the Property is located. If any portion, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with such law, the validity of the remaining portions, terms or provision of this Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not conflict with such law and/or did not contain the portion, term or provision held to be invalid.

16. **Successors:** This Agreement shall bind the parties' respective successors, assigns, heirs and personal representatives. This Agreement shall not be understood to limit in any way the right of the Ocwen to sell, or otherwise convey, any interest in the subject obligation to another, provided that such subsequent party in interest is also bound as Ocwen to the terms of this Agreement.

17. **Reference:** All references to the singular shall include the plural and all references to one gender herein shall include both genders.

18. **Executed in Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

19. **No Trial By Jury:** BY EXECUTING THIS AGREEMENT, YOU IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY RELATED AGREEMENTS OR DOCUMENTS OR TRANSACTIONS CONTEMPLATED IN THIS AGREEMENT.

20. **Payment Instructions:** All payments, unless you are notified by Ocwen in writing of a different address, shall be made to Ocwen at the following address:

Ocwen Federal Bank FSB
c/o FISERV
P. O. Box

21. **Notices:** All notices should be sent to:

If to Ocwen:

Ocwen Federal Bank FSB
Attn: Katie Sovic, Esq.
1675 Palm Beach Lakes Blvd, Suite 402
West Palm Beach, FL 33401
Telephone: 561/681-8796
Fax: 561/681-8162

If to Borrower:

Cynthia and Andria Guerra
6031 El Morro Lane
Oak Forest, Illinois 60452

Telephone: 708-535-6920

Fax: _____

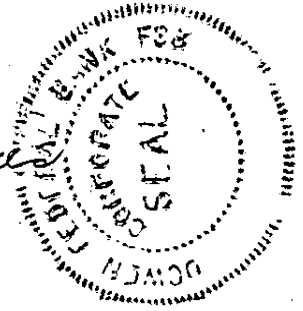
22. **Time of the Essence:** Time, and Ocwen's unimpaired security interest in the Property, shall be of the essence as to your obligations under this Agreement.

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WITNESS the following signatures and seals as of the day first written above.

OCWEN FEDERAL BANK FSB

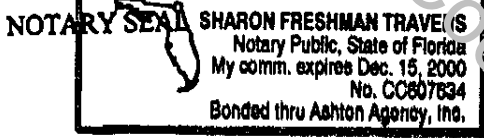
By: [Signature]
Name: Gregory D. Whitworth
Title: Loan Manager, Default Service



STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH

On Dec 31, 1998 before me, SHARON FRESHMAN TRAVELERS, a Notary Public in and for said County and State, personally appeared Gregory D. Whitworth, personally known to me (or 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 acknowledge 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.

WITNESS my hand and official seal.



[Signature]
Notary Public

BORROWER

[Signature] (SEAL)
Name: ANURTA GUERRA

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH

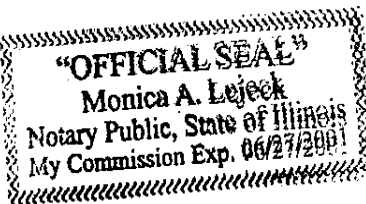
[Signature]
Name: CYNTHIA GUERRA

On 11-20-, 1998, before me, _____, a Notary Public in and for said County and State, personally appeared Cynthia and Andria Guerra personally known to me (or 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 acknowledge 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.

WITNESS my hand and official seal.

NOTARY SEAL

[Signature]
Notary Public



5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

LOT 7 IN BLOCK 10 IN 4TH ADDITION MEDEMA'S EL VISTA GARDENS, A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 17, TOWNSHIP 36 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office