



## **Loan Modification Services Agreement**

The undersigned Client(s) (referred to as “Client,” whether one or more) hereby authorizes Homestart, its representatives, employees, agents, brokers, and independent contractors (“Homestart”) to compile a loan modification package (“Loan Modification Package”). Homestart will present this Loan Modification Package to the lender(s) listed in the ‘Loan Modification Application Form’ under the heading ‘Mortgage(s) Information’ (“Lender(s)”). Homestart will present the Loan Modification Package in an attempt to obtain a modification of Client’s loan terms on the property described under the ‘Subject Property’ section of this ‘Loan Modification Services Agreement’ (“Subject Property”). In furtherance of the above, Client hereby authorizes Homestart to provide the following Loan Modification Services.

1. **Loan Modification Services.** The following services (“Loan Modification Services”) shall include:
  - (A) Compilation of the Loan Modification Package. The Loan Modification Package may include, but is not necessarily limited to, information regarding Client’s finances, including financial statements, hardship letters, and profit and loss statements;
  - (B) Presentation of the Loan Modification Package to Lender(s) in an effort to obtain a possible modification, restructuring, forbearance and/or reduction of Client’s real property loans on the Subject Property. Potential modifications may include, but are not limited to, reductions of the interest rate, mortgage payment and /or balance of the loans on the Subject Property;
  - (C) Other communications with the Lender(s) for acceptance of loan modification options that are intended, but not guaranteed, to provide Client with a more favorable debt structure.

Upon completion of Homestart’s analysis and research efforts, Homestart shall present to Client the loan modification options that Homestart has identified. Client, at Client’s sole discretion, shall approve, or disapprove the pursuit of a particular Option. This Agreement shall not take effect, and Homestart will have no obligation to provide Loan Modification Services (or any other services), until (i) Client returns a fully completed and signed copy of this Agreement; (ii) Client either (a) pays the Fee as set forth below or (b) with the approval of Homestart, agrees and signs “Payment Arrangement Agreement”; and (iii) Homestart approves Client as a client

2. **Disclaimer Regarding Other Services or Activities.** Under no circumstances shall Homestart do any or promise to do any of the following:
  - (A) Purchase the Subject Property or otherwise obtain any interest whatsoever therein;
  - (B) Request that Client execute an assignment of any foreclosure sale surplus or deed in favor of Homestart;
  - (C) Attempt to obtain any remaining funds from foreclosure sale;
  - (D) Contact creditors aside from the Lender(s);
  - (E) Provide debt, budget or financial counseling of any type;
  - (F) Provide any legal or tax advice or services of any type; or
  - (G) Receive or attempt to receive money for the purpose of distributing it to Client’s creditors in payment of any obligation secured by a lien on the Subject Property.

PLEASE SEE THE REMAINDER OF THIS AGREEMENT INCLUDING SECTIONS SIX (6) AND EIGHT (8) FOR IMPORTANT INFORMATION REGARDING THE SCOPE OF HOMESTART’S SERVICES.

3. **Fee.** The fee for the Loan Modification Services, payable to Homestart, is thirty four hundred ninety nine dollars (\$3,499.00). The Fee is due upon execution by Client of this Agreement and is considered earned upon the presentation by Homestart of the Loan Modification Package to the Lender(s). In the event Client pays the Fee by credit card and subsequently cancels that charge, Client understands and

acknowledges that he or she will be personally liable to Homestart for that charge-back and will indemnify Homestart for any incidental or consequential financial costs or losses resulting there from to Homestart.

**4. Money-Back Guaranty and Refund Policy.** In the event Homestart is unable to present Client with a loan modification option that either: (a) reduces the total amount of Client's loan; (b) lowers Client's loan interest rate; (c) lowers Client's monthly loan payment; or (d) results in forbearance of Client's loan for one or more months, Homestart shall – within thirty (30) calendar days – release any monies, 75% of contract agreement (\$2624.25) as per Advance Fee Agreement (see attached) to Client (less the credit or debit card refund charge described below) that Client has provided to Homestart for Loan Modification Services. If Client paid the Loan Modification Services fee by credit or debit card, Homestart will refund all Loan Modification Services fees received, less a two percent (2%) processing charge. This Money-Back Guaranty and Refund Policy only applies if Homestart is unable to *present* Client with a more favorable option and will not entitle Client to a refund in the event that Client chooses not to exercise the presented option.

**5. Subject Property.** The real property that is the subject of this Agreement is located at:

Address: \_\_\_\_\_, City: \_\_\_\_\_,  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**6. Scope of Services.** Homestart is not a legal or tax firm, nor is it a financial advisor or counselor. The services provided by Homestart to Client are strictly limited to compiling and presenting the Loan Modification Package to Lender(s) and communicating with Lender(s) for acceptance of loan modification options. Homestart's communication with Lender(s) is limited to discussing the facts and circumstances of Client's loan and Homestart will not engage in discussions of law with Lender(s) or Client. Homestart will not provide Client with any legal, financial or tax advice or services, including advice as to the wisdom or desirability of exercising or not exercising any loan modification options. Nor will Homestart present Client with any advice, services or representation in or for court proceedings, tax proceedings, bankruptcy proceedings, foreclosure actions or any other proceedings or actions. Client acknowledges that Client has been advised to retain and consult with legal, financial and/or tax counsel regarding the wisdom or desirability of exercising or not exercising any loan modification options. Client further acknowledges that Client has been advised to seek legal, financial and tax counsel regarding Client's current legal, financial and/or tax issues (if any) and must not rely on Homestart to resolve any of these issues for Client at any time, including while Homestart is attempting to provide Loan Modification Services to Client.

**7. Disclaimer Regarding Specific Outcome.** Homestart shall use its good faith best efforts to obtain a favorable outcome on behalf of Client in connection with the Loan Modification Process and this Agreement. Notwithstanding, Client understands and expressly acknowledges that:

(A) Loan Modification Services provided by Homestart do not guarantee a specific outcome and that no particular result has been promised, predicted, assured or covenanted as a result of anything stated by Homestart by virtue of this Agreement. Client acknowledges and understands that all loan modification options are contingent upon the Lender(s)' final written approval of all terms, including price, within the original offer or subsequent counter-offer, and that loan modification options are not always approved by Lender(s).

(B) Nothing in this Agreement or Homestart's statements to Client shall be construed to be a promise or guarantee about the outcome of Client's matter;

(C) Client expressly acknowledges that Homestart has made no such promises or guarantees to Client;

(D) Comments of Homestart with regard to any possible outcome of Client's matter are merely expressions of opinion and are necessarily speculative in nature, and Client understands and acknowledges that Client relies upon any such comments at Client's sole risk, subject to Homestart's ethical obligations to Client in this regard;

(E) Homestart makes no warranty, express or implied, as to the fitness of any of the loan modification options that may be presented pursuant to this Agreement; that a lower interest rate, mortgage payment or balance will be obtained from Lender(s); that any deficiency will be waived or tax liability will not be incurred; or that Client will not be required to execute a new promissory note and/or guaranty with the Lender(s) as a result of acceptance of a Loan Modification Option; or That any pending foreclosure action

of the Subject Property will be stopped or postponed by the submission of the Loan Modification Package or any other services rendered by Homestart; and

(F) Client understands and expressly acknowledges that the decision to exercise or not exercise a loan modification option is not without risk. Due to unforeseen events or circumstances, a loan modification option that appears more desirable at the outset, may leave Client (and/or Client's guarantors) in a worse financial, tax, and/or legal position than anticipated.

**8. Disclaimer Regarding Any "Foreclosure Consultant" Representation.** Client understands and acknowledges that Homestart has not represented, advertised or solicited to Client, either directly or indirectly, that they are "foreclosure consultants" or that they will, in fact, be able to achieve any of the following:

- (A) Stop or postpone any foreclosure sale;
- (B) Obtain any forbearance from any beneficiary or mortgagee;
- (C) Assist Client to exercise any right of reinstatement;
- (D) Obtain any extension of the period within which Client may reinstate his or her obligation;
- (E) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on the Subject Property in foreclosure or contained in that deed of trust or mortgage;
- (F) Assist Client to obtain a loan or advance of any funds whatsoever;
- (G) Avoid or ameliorate the impairment of Client's credit resulting from the recording of a Notice of Default or the conduct of a foreclosure sale; or
- (H) Assist Client in obtaining the remaining proceeds from any foreclosure sale of the Subject Property from the beneficiary, mortgagee, trustee under a power of sale, or counsel for the beneficiary, mortgagee, or trustee.

**9. Disclaimer Regarding Potential Payment to Homestart by Third Parties Including Lenders.** Homestart may receive monetary consideration from a third party, including Lender(s) and other lenders generally, in connection with the rendering of Loan Modification Services. Said payment shall not serve to increase or reduce Client's fee described in the 'Fee' section of this Agreement.

**10. Waiver of Liability.** Subject to applicable state or federal law, Client unconditionally waives any right of action or claim against Homestart and its assigns, at law or equity, directly, indirectly or proximately believed to arise out of this Agreement. In the event the Subject Property is ultimately foreclosed upon by the Lender(s), Client shall hold harmless Homestart for the loss of the Subject Property or any deficiency, tax liability or any other incidental and consequential damages or financial losses resulting therefore, including any impairment of Client's credit rating. In the event of acceptance by the Lender(s) of a Loan Modification Option that requires Client to pay a lump sum to secure a debt restructuring, loan modification and/or waiver of outstanding debt, and Client fails to pay all or part of said lump sum, Client shall hold Homestart harmless for any deficiency, tax liability and/or any other incidental and consequential damages or financial losses resulting therefore.

**11. Disclosure of Complete and True Information.** Client shall provide Homestart in a timely manner, all information requested by Homestart that is reasonably necessary to perform the Loan Modification Services. Failure by Client to do so within thirty days (30) execution hereof shall excuse Homestart from any obligation for performance under this Agreement. Client expressly represents and warrants that Client shall at all times provide Homestart with information that is accurate and true to the best of Client's knowledge and belief, including but not limited to reasons for any loan delinquency, the terms and status of loan indebtedness, and financial information regarding personal household income and expenses. Client agrees to defend, indemnify, and hold harmless Homestart against any claims, actions, lawsuits or liability of any kind whatsoever arising out of or in connection with Client's failure to provide said accurate and true information, or for any other representations or warranties of Client contained herein.

**12. Miscellaneous Client Responsibilities.** Client agrees not to interfere with or compromise the Loan Modification efforts of Homestart or to enter into any agreement with the Lender(s) without first notifying and consulting with Homestart. Client understands and acknowledges that failure to comply with

these responsibilities could jeopardize the Loan Modification Process and constitutes a material breach of this Agreement.

**13. Communication Between the Parties.** Homestart shall take reasonable steps to keep Client informed of significant developments, and to respond promptly to Client's inquiries and communications. Client agrees to be truthful with Homestart and keep it informed of any material information and developments which come to Client's attention, and to keep it advised of any change in Client's address or contact information. Client agrees to appear at all meetings deemed necessary and to cooperate fully with Homestart on all matters related to the Loan Modification Services.

**14. Decisions by the Lender(s).** Client acknowledges that any and all decisions by the Lender(s) are considered to be final. Client understands that if a Loan Modification Option is accepted by the Lender(s), Client shall be bound by any new loan terms, and that any failure to comply with these terms is solely the responsibility of the Client. Following such acceptance, Homestart and its assigns shall not be responsible for any further action, either by the Lender(s) or the Client, including but not limited to foreclosure of the Subject Property as a result of any default by Client.

**15. Disclosures.**

(A) **No Cash to Client.** Client acknowledges and understands that Client shall receive no cash from any transaction. Any additional funds usually due to a seller shall be paid to the Lender(s) which are affected by the transaction;

(B) **Timing.** Client acknowledges and understands that the Loan Modification Process typically takes six (6) to twelve (12) weeks, depending upon the Lender(s) but may be longer depending on individual circumstances;

(C) **Consultation with Professionals.** Client acknowledges that Homestart has advised Client to seek legal, financial and tax advice as to the desirability and wisdom of exercising or not exercising any potential loan modification option, including consulting with a tax attorney or certified public accountant to determine if there will be any financial and/or tax consequences in connection with any loan modification option;

(D) **Potential Harm to Credit Rating.** Client acknowledges and understands that a transaction may adversely affect a defaulting borrower's credit rating in the event that the Lender(s) report the outstanding loan as being settled for less than the full balance. In the event the Client is late with mortgage payments, causing the Lender(s) to begin the foreclosure process by filing a Notice of Default, but the Client pays the Lender(s) what is owed on the note before the foreclosure sale occurs, Client acknowledges and understands that these activities may appear on the borrower's credit report. Homestart shall not be responsible for any change or reduction in credit scores resulting from rendering of the Loan Modification Services;

(E) **Potential Deficiency Judgment.** Client understands that in some circumstances, Lender(s) may obtain a deficiency judgment against Client.

(F) **Potential Adverse Tax Implications.** Client understands and acknowledges that there may be adverse tax effects if a Loan Modification Option is accepted by the Lender(s).

(G) **Payment of Mortgage.** Client acknowledges and understands that Homestart has not and will not suggest or recommend in any way that Client stop making outstanding mortgage payments to Lender(s) during the Loan Modification Process. Nor does Homestart condone the failure to make such payments for any reason whatsoever. Client is solely responsible and obligated to make payments on any outstanding mortgages related to the Property. Homestart shall not be, and is not in any manner, obligated to make any payment on any mortgage related to the Subject Property; and

(H) **Additional Notes and Trust Deeds.** Client understands that if there is more than one note and trust deed against the Subject Property, it is possible that the holder of such note and trust deed may be able to bring an action to recover the amount of any outstanding note. It is possible that Client may be liable for any such amount.

(I) **Disclosures Generally.** The disclosures in this Agreement are not intended and should in no way be construed as or relied upon as legal advice, nor as a disclosure of all of the potential consequences relating to mortgages. They are intended to highlight the complex nature of the mortgage lending system and the desirability for Client to seek legal, tax and financial advice from entities other than Homestart (as

Homestart can not and will not provide such advice) as to Client's current legal, financial and tax situation and before exercising or not exercising any potential loan modification option.

**16. Miscellaneous.**

(A) **Binding Effect.** This Agreement shall be binding upon and will inure to the benefit of the Parties and their respective assigns and to Client's heirs, successors, survivors, and administrators;

(B) **Modification.** This Agreement can be amended or modified only by the written consent of the Parties;

(C) **Attempted Waiver.** No attempted waiver of any provisions of this Agreement shall be valid unless in writing and executed by the Parties hereto;

(D) **Severability.** If any one or more of the provisions of this Agreement will, for any reason, be found by a court to be illegal or invalid, such illegality or invalidity will not affect any other provision of this Agreement and this Agreement will be enforced as if such illegal or invalid provision had not been contained herein;

(E) **Headings.** All headings used herein are for ease of reference only and in no way shall be construed as interpreting, decreasing or enlarging the provisions of this Agreement;

(F) **Entire Agreement.** This Agreement shall be in full force and effect as of the Effective Date, and is the entire Agreement between the Parties with respect to the subject matter of this Agreement, and each Party acknowledges and agrees that no representations, warranties, inducements, promises or agreements other than those set forth herein have been made by either Party to the other. This Agreement supersedes any previously existing contracts or agreements relating to the subject matter herein between the Parties;

(G) **Applicable Law.** The validity, interpretation, construction, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of California, except to the extent federal law preempts state law;

(H) **Interpretation.** This Agreement shall be construed in accordance with its fair meaning as prepared;

(I) **Time of the Essence.** Time is of the essence of every provision of this Agreement that specifies a time for performance;

(J) **Counterpart Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument;

(K) **Facsimile Signatures.** Signatures on a facsimile copy of this Agreement shall be deemed an original for all lawfully enforceable purposes;

(L) **Agreement Received.** By virtue of the signature(s) below, Client acknowledges that he/she has read, understands and agrees to every term, covenant and condition of this Agreement and that he/she has received a true and complete copy hereof.

**17. Arbitration Agreement.** To the extent permitted by law, all controversies between the Parties which may arise out of or relate to any of the Loan Modification Services provided by Homestart under this Agreement, or the construction, performance or breach of this Agreement shall be settled by arbitration in San Diego County, California, under the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon any award rendered by the arbitrator(s) will be final, and may be entered into any court having jurisdiction. This Arbitration Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective representatives, attorneys-in-fact, successors, assigns, and any other persons having or claiming to have a legal or beneficial interest in the Subject Property, including any court-appointed trustees and receivers. The Parties acknowledge that:

(A) Arbitration awards are generally final and binding, and that a Party's ability to have a court reverse or modify an arbitration award is strictly limited;

(B) The Parties are waiving their right to seek remedies in court, including the right to a jury trial, except to the extent such a waiver would violate applicable state or federal law;

(C) Pre-arbitration discovery is generally more limited than and potentially different in form and scope from court proceedings;

(D) The arbitration award is not required to include factual findings or legal reasoning and any Party's right to appeal or to seek modification of rulings by the arbitrators is strictly limited;

(E) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court;

(F) The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this Agreement; and

(G) ALL PARTIES EXPRESSLY WAIVE THE RIGHT TO JURY AND APPEAL OF ANY ACTION AND AWARD BY THE ARBITRATOR.

**18. Confidentiality.** The Parties agree that they shall not provide, nor allow to be provided, any information to the public, news media or any other individual or entity regarding their involvement in this Agreement or the involvement of any other Party in the Agreement or the identity of any Party hereto without express permission and written consent of all Parties.

**19. Independent Legal Counsel.** Client acknowledges that he or she has been advised to retain and consult with independent legal counsel regarding this Agreement.

**By signing below, I certify that I read, understood and agree to this entire Loan Modification Services Agreement and do not have any questions about its terms, and authorize Homestart to charge my credit or debit card or my bank the thirty four hundred ninety nine (\$3,499.00) Loan Modification Services fee.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

CLIENT #1 \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

CLIENT #2 \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

HOMESTART REPRESENTATIVE