

[REDACTED]

Loan Number: [REDACTED]

FORECLOSURE FORBEARANCE AGREEMENT

This Foreclosure Forbearance ("Agreement") on [REDACTED] between EMC MORTGAGE CORPORATION (referred to herein as "Lender") and [REDACTED] and [REDACTED] residing at [REDACTED] (referred to either individually or collectively as "Borrower").

The term "Borrower" as used in this Agreement refers to the person or persons (whether masculine or feminine) who are obligated to Lender to repay the mortgage loan. The parties hereto acknowledge that a Discharge from a Chapter 7 bankruptcy may have been granted to the Borrower prior to the execution of the Agreement hereof and that the Lender may not pursue the Borrower for personal liability. However, the parties acknowledge that the Lender retains certain rights, including but not limited to, the right to foreclose its lien under appropriate circumstances. The parties agree that the consideration given for this Agreement is the Lender's forbearance from presently exercising its rights and pursuing its remedies under the Security Instrument as a result of the Borrower's default of its obligations thereunder. Nothing herein shall be construed to be an attempt to collect against the Borrower personally or an attempt to revive or reaffirm any personal liability.

The term "Lender" as used in this Agreement refers to the holder of the Note evidencing the indebtedness of the borrower and the Mortgage which secures the repayment of the indebtedness.

The term "Lender" as used in this Agreement may also be used to designate the authorized servicing agent of the holder of the Note and Mortgage.

WHEREAS, Borrower is currently the owner of a certain property located at [REDACTED] (hereinafter referred to as the "Mortgaged Premises") and

WHEREAS, Borrower received a mortgage loan from Lender or Lender's predecessor in interest, and executed a Note dated [REDACTED] promising to pay to the Lender, its successors and/or assigns, the sum of [REDACTED] with interest according to its terms, and in order to secure the repayment of the mortgage loan, executed a Mortgage in favor of the Lender or Lender's predecessor-in-interest which was filed and recorded as a lien against the Mortgaged Premises, and

WHEREAS, Borrower has failed to make timely payments due under the Note and, by reason thereof, Lender declared the loan to be in default, accelerated the time for payment of the debt, declared the entire unpaid principal balance of said loan to be immediately due and payable, demanded immediate payment of all sums due under the Note, and

WHEREAS, Borrower has requested the Lender to rescind its acceleration of the maturity date of the Note, and agree to reinstate the mortgage loan, and

WHEREAS, Lender is unwilling to accede to such request or to allow reinstatement of the Mortgage terms of the Mortgage, and

WHEREAS, Borrower hereby accepts the terms and conditions set forth below as a condition precedent to entering into this Agreement. This Agreement is not valid or executable until signed and returned with the initial payment by the date specified in the terms below, with time being of the essence.

NOW, THEREFORE, in consideration of One Dollar and other good and valuable consideration, each to the other in hand paid, the receipt and sufficiency of which is hereby acknowledged, it is hereby stipulated and agreed by and between Lender and the Borrower, as follows:

Please Initial: [REDACTED]



ACKNOWLEDGMENTS OF BORROWER

Borrower is currently the owner of the Mortgaged Premises.

Borrower procured a loan from Lender (or Lender's predecessor) in the amount set forth in the Note at the time of closing.

Borrower executed a Note and also a Mortgage in connection with said loan and acknowledges that the signatures affixed to the Note and Mortgage are Borrower's actual signatures and are genuine in all respects.

Borrower received the requisite copies of the Note or Lenders' predecessor in interest and the Mortgage and all loan disclosures at the time that Borrower received the mortgage from the Lender.

Borrower has not paid Lender the monthly installment of principal, interest and escrow for taxes (and/or insurance, if applicable) and, by reason thereof, default has occurred under the provisions of the Note and the Mortgage, and this default is valid and material.

As of [redacted] the unpaid principal balance of the mortgage obligation is [redacted].

Borrower does not have any legal or equitable defenses with respect to the foreclosure of the Mortgage Premises.

Lender has properly accelerated the maturity date for the payment of the mortgage obligation.

Borrower acknowledges receipt of the summons and complaint and consents to the filed under index number [redacted] jurisdiction of the court.

ARREARS

The following is a recitation of the legally claimable amount owed by Borrower which must be repaid to Lender before the loan can be reinstated:

[redacted] Payments @ \$ [redacted] Principal & Interest	\$ [redacted]
0 Payments @ \$ 0.00	[redacted]
0 Payments @ \$ 0.00	[redacted]
0 Payments @ \$ 0.00	0.00
0 Payments @ \$ 0.00	0.00
Corporate recoverable advances (Attorney fees/costs, appraisals, inspections, etc. paid by EMC or previous servicers)	[redacted]
Other misc. fees (Fees, deferments, HUD interest arrearage, if applicable, etc.)	[redacted]
Accrued late charges	[redacted]
NSF fees	0.00
Escrow (Advances and Required)	[redacted]
Suspense credit	[redacted]
Estimated Outstanding fees/costs**	[redacted]
**Accurate foreclosure invoices will be billed upon completion of your forbearance plan.	
Principal Arrearage (HUD)	0.00
TOTAL arrearages good through [redacted]	\$ [redacted]

Please Initial: [redacted]



A FORECLOSURE SALE DATE IS SCHEDULED ON THE PROPERTY FOR:



TERMS OF FORBEARANCE

1. Borrower agrees, as a condition precedent to reinstatement of the Mortgage, to pay or cause to be paid to Lender, the following payments, which said sums shall be remitted by the Borrower in CERTIFIED FUNDS, subject to collection, made payable to Lender at the respective times as follows: Upon signing this Agreement on or before March 4, 2005, paying the sum of [redacted] on or before [redacted] and subsequently monthly payments are to be made on the [redacted] day of each month beginning [redacted], and continuing until and including [redacted] by paying [redacted] (which is a regular payment plus a portion of the arrearages). The initial payment is to be made through Western Union

The balance of the arrearage will be all due and payable with the 1st payment due upon completion of this Agreement.

THE INITIAL PAYMENT SHALL BE SENT BY WESTERN UNION QUICK COLLECT ONLY.

WESTERN UNION QUICK COLLECT INSTRUCTIONS ARE AS FOLLOWS:

PAY TO: EMC MORTGAGE
CODE CITY: EMC
STATE: TX

2. Borrower acknowledges the above stated payments include only a portion of the total arrears owed, and will not completely reinstate the loan or cure the default.

3. The payments due hereunder shall be forwarded directly to:
EMC Mortgage Corporation
909 Hidden Ridge Dr., Suite 200
Irving, Texas 75038
Attn: Loss Mitigation Solicitation

4. It is expressly understood and agreed that TIME SHALL BE OF THE ESSENCE as to each payment required to be made by the Borrower pursuant to this Agreement. Each payment is due on the date specified as set forth herein, and there is no grace period for any payments due under this Agreement. All Payments due under this Agreement are due in certified funds only.

5. Borrower herein acknowledges that Lender is not required to either reinstate the mortgage obligation or to accept payment of arrears in installments, and entering into this Agreement is an accommodation to the Borrower.

6. The following are "Events of Default" under this Agreement:

- A. Non-payment or untimely payment of the payments due under this Agreement;
- B. Failure to maintain in good condition the Mortgaged Premises;
- C. The filing of Bankruptcy, by choice or otherwise, by the Borrower or the holder of any interest in the property.
- D. The placement of or allowance of any additional liens or judgments against the Mortgaged Premises.

Please Initial: [redacted]



7. In the event that a summons and complaint have been filed, the Borrower understands and acknowledges that service shall continue notwithstanding the execution of this Agreement. Upon completion of service of process, the Lender will suspend foreclosure activities so long as the Borrower complies with all the provisions of this Agreement. In the event that the Borrower defaults in any payment provided for in this Agreement, the Lender will be at liberty to proceed immediately with the foreclosure action without further notice, giving credit to the Borrower at the time of the foreclosure sale for any payments made pursuant to this Agreement and applying same first to legal fees, costs, and disbursements; then to the repayment of escrow deficits and advances, if any; late charges, and lastly to unpaid interest and principal, unless otherwise stated by agency requirements or specified in the Security Instrument.

The Borrower shall have the right to redeem at any time prior to the foreclosure sale, providing the Borrower shall pay to the Lender all sums due under the Mortgage, plus all legal fees and disbursements incurred as a result of this Agreement or of the foreclosure action.

8. This Agreement does not cure the default. If the terms of this Agreement are satisfied, EMC may elect to renegotiate the loan terms at the end of this Agreement at its own discretion. Late charges will continue to be assessed on the Agreement payments until the mortgage loan payments are contractually current, unless otherwise stated by agency requirements or specified in the Security Instrument.

9. Regular monthly payments which must also be paid under this Agreement may be increased proportionately in the event of an increase in property taxes, hazard insurance, association dues, or if the loan is Adjustable Rate Mortgage.

10. On non-escrowed loans, the Borrower remains responsible for payment of property taxes and hazard insurance. In the event that property taxes or hazard insurance are delinquent, EMC will advance payment as allowed in the Mortgage and the regular monthly payment will be adjusted accordingly.

Foreclosure Sale:

If there is a foreclosure sale currently scheduled, the sale will not be canceled (if state law allows for postponement of the sale). The sale will be postponed pursuant to mutual agreement of the parties while this Agreement is in process. The foreclosure process is only placed on HOLD.

If the Borrower defaults under this Agreement, foreclosure proceedings will continue without any additional notice to the Borrower. The foreclosure process will resume from the point prior to the execution of the Agreement. **FORECLOSURE WILL NOT RE-START.** If the Agreement is initiated during the period of an active publishing, the publishing will not stop until the normal publishing time for that state has expired, as allowed by state law.

MODIFICATION OF MORTGAGE

As a condition precedent to entering into this Agreement, Borrower agrees and consents to the modification and amendment of the Mortgage recorded against the Mortgaged Premises to the extent that the following provisions shall be added to and deemed to be part of the Mortgage.

A. Agreement To Pay Foreclosure Legal Fees And Expense

In the event of any default by Borrower(s) under the terms of the Note, the Mortgage or any other instrument securing the Note, and said default(s) results in the acceleration of the maturity date of the Mortgage, Borrower(s) hereby agree to pay or to reimburse Lender for all reasonable attorneys, fees, disbursements and costs incurred or paid in any threatened, pending or completed foreclosure of the Mortgaged Premises. Borrower(s) further agree that in any foreclosure of this Mortgage there shall be included in the computation of the amount due to the Lender or in the Judgment, the amount paid or to be paid for attorneys' services in connection

Please Initial: 

with said foreclosure proceeding, including all expenses, costs and disbursements in connection therewith. In the event the Court, in the Judgement of Foreclosure, awards legal fees in a sum less than that actually incurred by Lender or, in the event the Clerk taxes the Costs in a sum less than that actually incurred by Lender, then, in such event, Borrower(s) agree to pay the actual amounts incurred by Lender notwithstanding the lesser amounts awarded or taxed. Said sum shall be in addition to the right of the Lender to assess, tax and recover all disbursement allowances, additional allowances and costs provided by law.

B. Agreement to Pay Legal Fees and Expenses Relating To Bankruptcy

In the event that the Borrower(s) files for protection from creditors under any provision of the Bankruptcy Code, or in the event that an involuntary petition is filed against any of the Borrower(s), Borrower(s), hereby agrees to pay all legal fees and expenses of Lender's counsel incurred in connection with any bankruptcy filing, including the filing of a Proof of Claim, any motions made by the Lender, any attendance in Bankruptcy Court and any other proceeding deemed necessary by the Lender in order to protect the lien secured by its Mortgage.

C. Agreement To Pay Interest On Arrears In The Event of a Bankruptcy Filing

In the event that the Borrower(s) files for protection from creditors under the provisions of Chapter 13 of the Bankruptcy Code, Borrower(s) herein agree to pay to the Lender interest on all Pre-Petition arrears due to Lender at the rate of twelve percent (12%) per annum from the date of filing of the Petition to the date of discharge or until such time as the automatic stay imposed by the Bankruptcy Code has been vacated, whichever is earlier.

REINSTATEMENT OF LOAN

The Note and Mortgage held by Lender shall not be reinstated unless and until such time Borrower has timely and fully made all of the payments set forth herein in the Agreement as well as those pursuant to subsequent Agreements, as necessary. At such time that said payments have been made, and provided that no further default has occurred, the acceleration of the maturity date of the Mortgage Note and the demand for payment of all sums due under the Note will be rescinded and the Mortgage obligation will be reinstated under the same terms and conditions, except as modified and amended herein. If a foreclosure action had been commenced prior to entering into this Agreement, Lender agrees upon full reinstatement to discontinue said action. Acceptance of payments under this Agreement shall not be a waiver of any of Lender's rights with respect to the foreclosure. In the event that Borrower breaches this Agreement, Lender shall be free to proceed to or continue with the foreclosure of the Mortgaged Premises and credit will be given to Borrower for any payments made.

No failure or delay on the part of Lender in exercising any of its rights and remedies hereunder or otherwise shall constitute a waiver thereof, and no single or partial waiver by Lender of any default or other right or remedy which it may have shall operate as a waiver of any other default, right or remedy or of the same default, right or remedy on a future occasion.

This Agreement and all obligations of each of the Borrower(s) hereunder shall be binding upon the successors or assigns of each of the Borrower(s) and shall, together with the rights and remedies of Lender hereunder, insure to the benefit of Lender and its successors and assigns. Without limiting the generality of, and notwithstanding anything contained herein, the obligations and liability of the Borrower(s) hereunder and under the Loan Documents is joint and several, each being fully liable for the obligation of the other.

Please Initial: 

EMC

FUTURE DEFAULTS

Borrower agrees and acknowledges that if a default should occur under the Mortgage after the execution of this Agreement, Lender may require other terms of the mortgage loan be modified as a condition precedent to the reinstatement of the Mortgage.

GENERAL PROVISIONS

If you are on a HUD forbearance plan, these average figures may not include HUD arranges, including off schedule principal. HUD arranges are not required in order to reinstate your HUD forbearance to a current status. However, they will remain as part of your overall debt until paid and count against the equity you're trying to build up in your home.

The amount due to Lender set forth in this Agreement is subject to verification and correction by the Lender. If an error has been made with respect to the amount due to the Lender, then Lender agrees that written notice of said error shall be given to the Borrower by Lender or its counsel and the final payment due under this Agreement shall be adjusted as necessary to correct said error, without prejudice to the Lender.

Borrower acknowledges that Borrower has previously received all appropriate Debt Notices from the Lender and/or the Lender's attorney, which set forth the amount of debt owed, indicated the name of the creditor to whom the debt is owed, gave the Borrower an opportunity to dispute the validity of the debt or any portion thereof, and by signing this Agreement, Borrower agrees to all parts of this debt.

Borrower represents and acknowledges that Borrower has had an opportunity to review the Agreement with the aid of counsel.

The foregoing represents the entire Agreement of the parties and any modification, amendment or extension hereof shall not be valid, unless in writing and signed by the party to be changed.

BORROWER(S)

Date: _____

LENDER: EMC MORTGAGE CORPORATION

Date: _____

Sgt. _____

Title _____

Kristen Belmonte

Loan Number: _____

ALL DOWN PAYMENTS TO BE SENT WETERN UNION QUICK COLLECT.

CODE CITY: EMC

STATE: TX