

WHEN RECORDED MAIL TO:  
SOUTHPOINT BANK  
3500 COLONNADE PARKWAY, SUITE 140  
BIRMINGHAM, ALABAMA 35243  
Loan Number: 1700840631

[Space Above This Line For Recording Data]

## LOAN MODIFICATION AGREEMENT (Providing for Fixed Interest Rate)

This Loan Modification Agreement ("Agreement"), made this 17th day of DECEMBER, 2008, between SCOTT SMITH AND JACLYN SMITH HUSBAND AND WIFE AS JOINT TENANTS

("Borrower")

and SOUTHPOINT BANK

("Lender"),

amends and supplements (1) the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), and Timely Payment Rewards Rider, if any, dated and recorded in Book or Liber, at page(s) 20080724000299530, of the OFFICIAL Records of

[Name of Records]

**SHELBY**

~~JEFFERSON~~ / ALABAMA

and (2) the Note, bearing the same

[County and State, or other Jurisdiction]

date as, and secured by, the Security Instrument, which covers the real and personal property described in the Security Instrument and defined therein as the "Property", located at

2520 MARCAL ROAD, BIRMINGHAM, ALABAMA 35244,

[Property Address]

the real property described being set forth as follows:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A".

In consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

1. As of DECEMBER 17, 2008, the amount payable under the Note and the Security Instrument (the "Unpaid Principal Balance") is U.S. \$ 396,000.00, consisting of the unpaid amount(s) loaned to Borrower by Lender plus any interest and other amounts capitalized.
2. Borrower promises to pay the Unpaid Principal Balance, plus interest, to the order of Lender. Interest will be charged on the Unpaid Principal Balance at the yearly rate of 5.125 %, from JANUARY 1, 2009. Borrower promises to make monthly payments of principal and interest of U.S. \$ 2,174.27, beginning on the 1st day of FEBRUARY, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. The yearly rate of 5.125 % will remain in effect until principal and interest are paid in full. If on JUNE 1, 2038 (the "Maturity Date"), Borrower still owes amounts under the Note and the Security Instrument, as amended by this Agreement, Borrower will pay these amounts in full on the Maturity Date.
3. If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by the Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by the Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower.

4. Borrower also will comply with all other covenants, agreements, and requirements of the Security Instrument, including without limitation, Borrower's covenants and agreements to make all payments of taxes, insurance premiums, assessments, escrow items, impounds, and all other payments that Borrower is obligated to make under the Security Instrument; however, the following terms and provisions are forever canceled, null and void, as of the date specified in paragraph No. 1 above:
  - (a) all terms and provisions of the Note and Security Instrument (if any) providing for, implementing, or relating to, any change or adjustment in the rate of interest payable under the Note, including, where applicable, the Timely Payment Rewards rate reduction, as described in paragraph 1 of the Timely Payment Rewards Addendum to Note and paragraph A.1. of the Timely Payment Rewards Rider. By executing this Agreement, Borrower waives any Timely Payment Rewards rate reduction to which Borrower may have otherwise been entitled; and
  - (b) all terms and provisions of any adjustable rate rider, or Timely Payment Rewards Rider, where applicable, or other instrument or document that is affixed to, wholly or partially incorporated into, or is part of, the Note or Security Instrument and that contains any such terms and provisions as those referred to in (a) above.
5. Borrower understands and agrees that:
  - (a) All the rights and remedies, stipulations, and conditions contained in the Security Instrument relating to default in the making of payments under the Security Instrument shall also apply to default in the making of the modified payments hereunder.
  - (b) All covenants, agreements, stipulations, and conditions in the Note and Security Instrument shall be and remain in full force and effect, except as herein modified, and none of the Borrower's obligations or



liabilities under the Note and Security Instrument shall be diminished or released by any provisions hereof, nor shall this Agreement in any way impair, diminish, or affect any of Lender's rights under or remedies on the Note and Security Instrument, whether such rights or remedies arise thereunder or by operation of law. Also, all rights of recourse to which Lender is presently entitled against any property or any other persons in any way obligated for, or liable on, the Note and Security Instrument are expressly reserved by Lender.


- (c) Borrower has no right of set-off or counterclaim, or any defense to the obligations of the Note or Security Instrument.
- (d) Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument.
- (e) All costs and expenses incurred by Lender in connection with this Agreement, including recording fees, title examination, and attorney's fees, shall be paid by the Borrower and shall be secured by the Security Instrument, unless stipulated otherwise by Lender.
- (f) Borrower agrees to make and execute such other documents or papers as may be necessary or required to effectuate the terms and conditions of this Agreement which, if approved and accepted by Lender, shall bind and inure to the heirs, executors, administrators, and assigns of the Borrower.

SOUTHPOINT BANK, AN ALABAMA  
CHARTERED BANK

\_\_\_\_\_(Seal)  
-Lender

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

  
SCOTT SMITH \_\_\_\_\_(Seal)  
-Borrower

  
JACLYN SMITH \_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

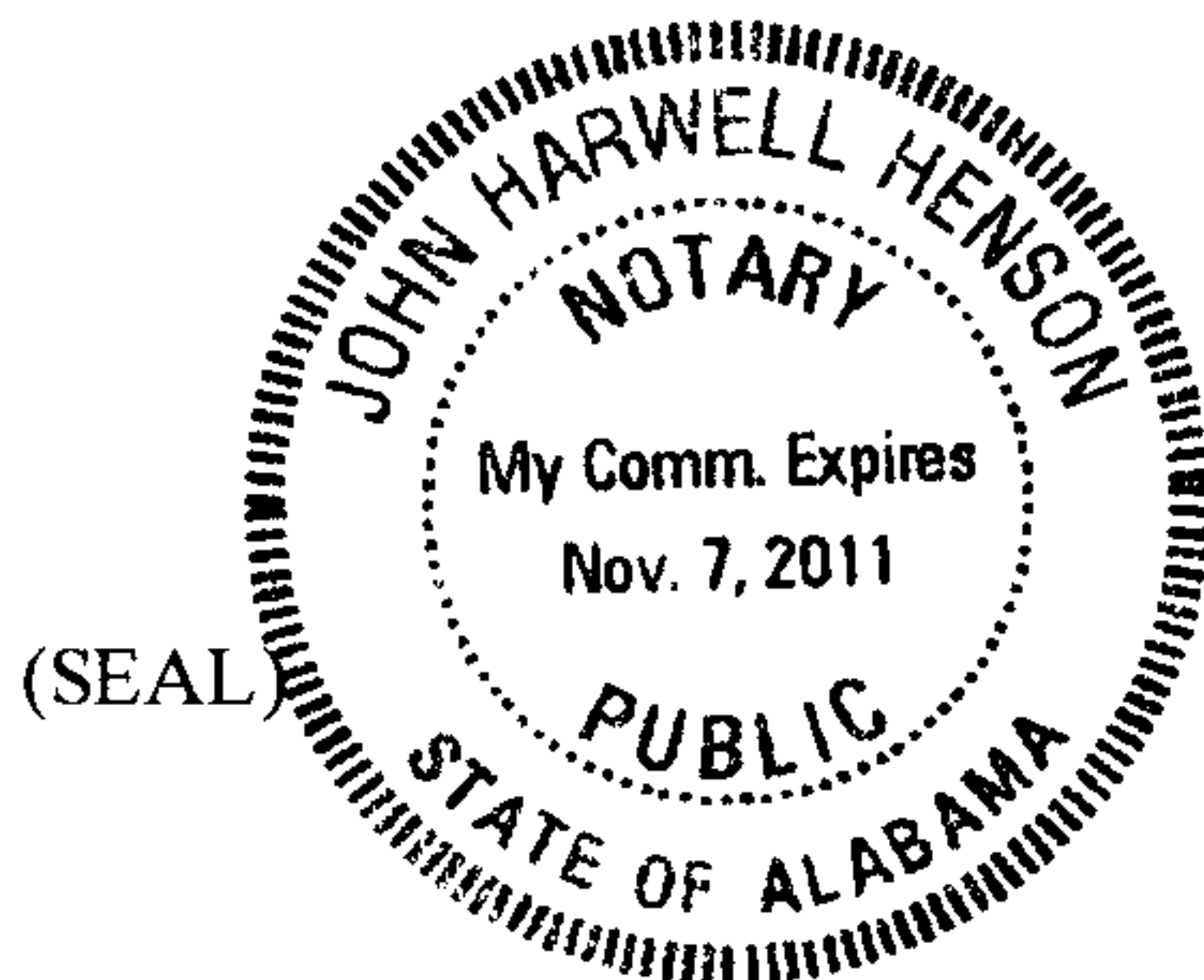
\_\_\_\_\_[Space Below This Line For Acknowledgments]\_\_\_\_\_

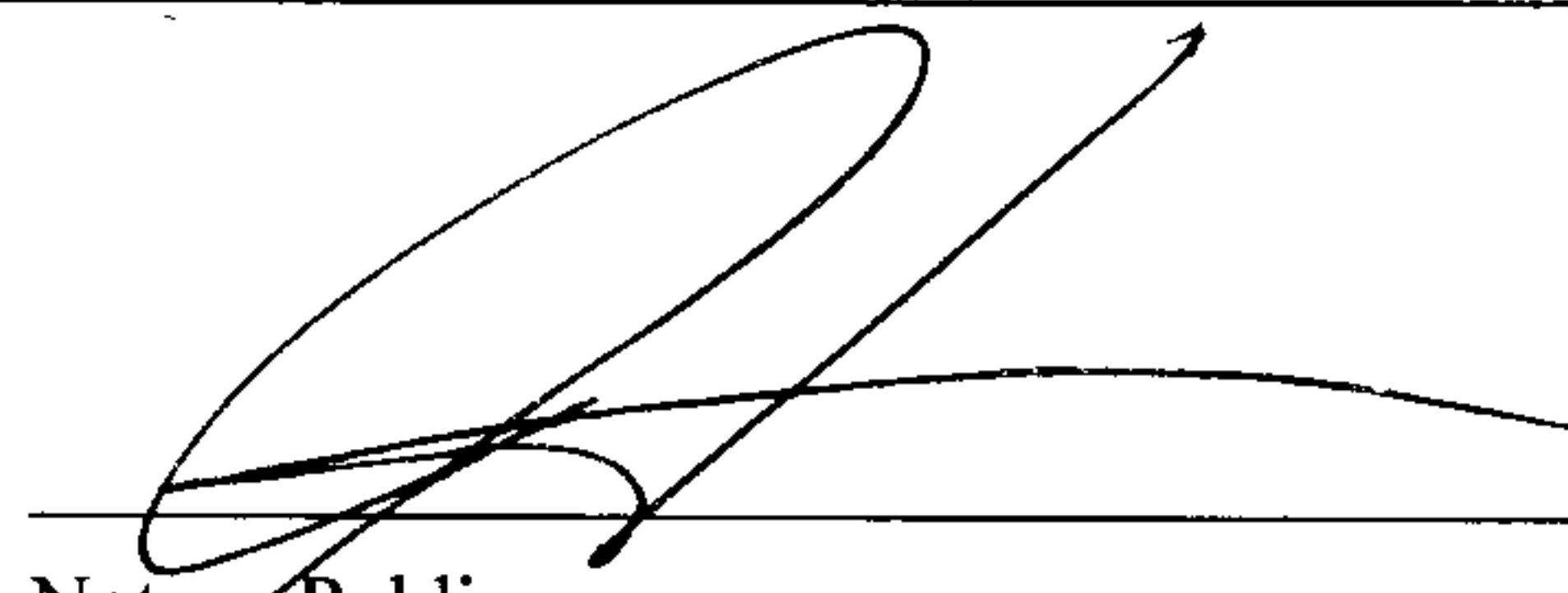
STATE OF ALABAMA

COUNTY OF JEFFERSON

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of DECEMBER, 2008  
by SCOTT SMITH AND JACLYN SMITH

who was/were to me personally known or who produced \_\_\_\_\_  
as identification.



  
\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
by \_\_\_\_\_ of \_\_\_\_\_  
County, on behalf of \_\_\_\_\_


\_\_\_\_\_ who was to me personally known  
or who produced \_\_\_\_\_  
as identification, as the act and deed of the Bank.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_



## EXHIBIT "A"

  
20090824000324020 5/5 \$23.00  
Shelby Cnty Judge of Probate, AL  
08/24/2009 09:27:28 AM FILED/CERT

A part of the Southwest quarter of the Southeast quarter of Section 16, Township 19 South, Range 2 West, and being more particularly described as follows: Commence at the Southwest corner of said quarter-quarter Section; thence East along the South line of same a distance of 710.00 feet; thence 64 degrees 46 minutes to the left a distance of 969.30 feet; thence 74 degrees 52 minutes to the left a distance of 333.60 feet; thence 90 degrees 00 minutes to the left a distance of 200.00 feet to the point of beginning of tract herein described; thence continue along the last named course a distance of 150.00 feet; thence 80 degrees 04 minutes to the left a distance of 204.30 feet; thence 114 degrees 55 minutes to the left a distance of 50.0 feet to the point of a curve to the right having a central angle of 07 degrees 14 minutes a radius of 1110.84 feet; thence along the arc of said curve a distance of 140.25 feet; thence 78 degrees 47 minutes to the left a distance of 160.24 feet to the point of beginning. Situated in Shelby County, Alabama.