

20211020000509400
10/20/2021 08:31:11 AM
MORT 1/9

This document prepared by:
Lauren Haig
PNC Bank, N.A.
P. O. Box 8800
Dayton, OH 45401-8800

WHEN RECORDED MAIL TO:
PNC Bank, N.A.
P. O. Box 8800
Dayton, OH 45401-8800
ATTN: Post Closing/Final
Documentation

[Space Above This Line For Recording Data]

MORTGAGE
(Home Equity Line of Credit)

KIRBY
Loan #: xxxxxxx2549
PIN: 24-5-16-0-000-002-004

THIS MORTGAGE, dated May 3, 2021, is between WILLIAM EDWARD KIRBY, Husband and CHARNITA K KIRBY, Wife; residing at 115 OVERLOOK TER, HELENA, AL 35080 the person or persons signing as "Mortgagor", whether one or more, below and hereinafter referred to as "we" or "us" and PNC Bank, National Association ("PNC Bank, N.A."), with an address at 222 Delaware Avenue, Wilmington, DE 19801 and hereinafter referred to as "you" or the "Mortgagee."

WHEREAS, Mortgagor has entered into a Choice Home Equity Line of Credit Agreement and Disclosure Statement ("Agreement") of even date herewith, the terms and provisions of which are included herein by reference as though fully set out herein verbatim; that the Agreement is an open-end credit agreement under which Mortgagor may borrow, repay, and re-borrow from Mortgagee from time to time so long as the aggregate unpaid principal balance of such loans outstanding from time to time does not exceed the sum of \$62,132.00; and that the rate of interest ("Finance charge") payable on such loan made under the Agreement is a variable daily percentage rate and annual percentage which may change at any time as defined in the Agreement. If the total amount of indebtedness decreases to zero from time to time, this Mortgage will remain in effect until it is released or becomes void. The debt evidenced by the Agreement is due and payable in full on May 15, 2061 the "maturity date".

Now, THEREFORE, in consideration of the Agreement and in order to secure the payment of all loans now or hereafter made to or at the bequest of Mortgagor named above, or if more than one Mortgagor is named, all loans hereafter made to or at the request of any one or more of the Mortgagors, the payment of all interest and costs, late charges and all other charges related to the Agreement, all of which sums are repayable according to the Agreement; and also to secure the performance of all of the promises and

HELOC - AL Mortgage
EX 1391.29

Page 1 of 7



agreements made by us and each Mortgagor and Co-signer in the Agreement, all of our promises and agreements in this Mortgage, any extensions, renewals, amendments, supplements and other modifications of the Agreement, and any amounts advanced by you under the terms, of the section of this Mortgage entitled "Our Authority To You", all of which loans under the Agreement may be made, repaid and re-made from time to time in accordance with the terms of the Agreement and subject to the Credit Limit set forth in the Agreement, and in consideration of the foregoing the undersigned Mortgagor (whether one or more) does/do hereby mortgage, assign, grant, bargain, sell and convey unto Mortgagee the real property set forth and further described as:

See Attached Exhibit A

(the "Premises" or "Property"), which has the address of 115 OVERLOOK TER (Street), HELENA (Municipality), Shelby (County), AL (State) 35080 (Zip).

TO HAVE AND TO HOLD such Property unto Mortgagee and to Mortgagee's successors and assigns, forever, and all rights and interests which derive from Mortgagor's ownership, use or possession of the Property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all streets, lanes, alleys, passages, and ways; all easements, rights of way, all liberties, privileges, tenements, hereditaments, and appurtenances thereunto belonging or anywise made appurtenant hereafter, and the reversions and remainders with respect thereto; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters. All of the foregoing is referred to in the Mortgage as the "Property" or "Premises".

OWNERSHIP: Mortgagor covenants that Mortgagor is the sole owner(s) of the Property and is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property to you (Mortgagee) and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants that it will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

MORTGAGOR'S IMPORTANT OBLIGATIONS:

(a) PAYMENT OF ALL CHARGES REQUIRED TO BE PAID UNDER THE TERMS OF THE AGREEMENT AND THIS MORTGAGE: We shall promptly pay to you when due all advances and charges to our Account plus interest (Finance Charges) and any other amounts due and required to be paid to you under the terms and provisions of the Agreement or under the Mortgage.

(b) TAXES: We will pay all real estate taxes, assessments, water charges and sewer rents relating to the Premises when they become due. We will not claim any credit on, or make deduction from, the loan under the Agreement because we pay these taxes and charges. We will provide you with proof of payment upon request.

(c) MAINTENANCE: We will maintain the building(s) on the Premises in good condition. We will not make major changes in the building(s) except for normal repairs. We will not tear down any of the building(s) on the Premises without first getting your consent. We will not use the Premises illegally. If this Mortgage is on a unit in a condominium or a planned unit development, we shall perform all of our obligations under the declaration or covenants creating or governing the condominium or planned unit



development, the by-laws and regulations of the condominium or planned unit development and constituent documents.

(d) **INSURANCE:** We will keep the building(s) on the Premises insured at all times against loss by fire, flood and any other hazards you may specify. We may choose the insurance company, but our choice is subject to your reasonable approval. The policies must be for at least the amounts and the time periods that you specify. We will deliver to you upon your request the policies or other proof of insurance. The policies must name you as "mortgagee" and "loss-payee" so that you will receive payment on all insurance claims, to the extent of your interest under this Mortgage, before we do. The insurance policies must also provide that you be given not less than 10 days prior written notice of any cancellation or reduction in coverage, for any reason. Upon request, we shall deliver the policies, certificates or other evidence of insurance to you. In the event of loss or damage to the Premises, we will immediately notify you in writing and file a proof of loss with the insurer. You may file a proof of loss on our behalf if we fail or refuse to do so. You may also sign our name to any check, draft or other order for the payment of insurance proceeds in the event of loss or damage to the Premises. If you receive payment of a claim, you will have the right to choose to use the money either to repair the Premises or to reduce the amount owing on the Agreement.

(e) **CONDEMNATION:** We assign to you the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Premises, or part thereof, or for conveyance in lieu of condemnation, all of which shall be paid to you, subject to the terms of any mortgages that have priority to this Mortgage.

(f) **SECURITY INTEREST:** We will join with you in signing and filing documents and, at our expense, in doing whatever you believe is necessary to perfect and continue the perfection of your lien and security interest in the Premises.

(g) **OUR AUTHORITY TO YOU:** If we fail to perform our obligations under this Mortgage, you may, if you choose, perform our obligations and pay such costs and expenses. You will add the amounts you advance to the sums owing on the Agreement, on which you will charge interest at the interest rate set forth in the Agreement. If, for example, we fail to honor our promises to maintain insurance in effect, or to pay filing fees, taxes or the costs necessary to keep the Premises in good condition and repair or to perform any of our other agreements with you, you may, if you choose, advance any sums to satisfy any of our agreements with you and charge us interest on such advances at the interest rate set forth in the Agreement. This Mortgage secures all such advances. Your payments on our behalf will not cure our failure to perform our promises in this Mortgage. Any replacement insurance that you obtain to cover loss or damages to the Premises may be limited to the amount owing on the Agreement plus the amount of any mortgages that have priority to this Mortgage.

(h) **HAZARDOUS SUBSTANCES:** We shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Premises. We shall not do, nor allow anyone else to do, anything affecting the Premises that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Premises of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Premises. As used in this paragraph, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other



xxxxxx2549

flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph, "Environmental Law" means federal laws and laws of the jurisdiction where the Premises are located that relate to health, safety or environmental protection.

(i) SALE OF PREMISES: We will not sell, transfer ownership of, mortgage or otherwise dispose of our interest in the Premises, in whole or in part, or permit any other lien or claim against the Premises without your prior written consent. If all or any part of the Premises or any interest in it is sold or transferred without Mortgagee's prior written consent, Mortgagee may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by you, as Mortgagee, if exercise is prohibited by federal law as of the date of this Mortgage.

(j) INSPECTION: We will permit you to inspect the Premises at any reasonable time.

NO LOSS OF RIGHTS: The Agreement and this Mortgage may be negotiated or assigned by you without releasing us or the Premises. You may add or release any person or property obligated under the Agreement and this Mortgage without losing your rights in the Premises.

REMOVAL OF IMPROVEMENTS: We shall not demolish or remove any improvements from the Premises without your prior written consent. As a condition to the removal of any improvements, you may require us to make arrangements satisfactory to you to replace such improvements with improvements of at least equal value.

COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS: We shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Premises. We may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as we have notified you in writing prior to doing so and so long as, in your sole opinion, your interests in the Premises are not jeopardized. You may require us to post adequate security or a surety bond, reasonably satisfactory to you, to protect your interest.

DUTY TO PROTECT: We agree to neither abandon nor leave unattended the Premises. We shall do all other acts set forth above in this section, which from the character and use of the Premises are reasonably necessary to protect and preserve the Premises.

COMPLIANCE WITH LAWS: We warrant that the Premises and our use of the Premises complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

SURVIVAL OF PROMISES: All promises, agreements and statements we have made in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature and shall remain in full force and effect until such time as the Agreement is paid in full.

DEFAULT: Except as may be prohibited by applicable law, and subject to any notice required by applicable law, if we default on any term in the Agreement and/or of any term of this Mortgage, you may, in accordance with applicable law, pursue and enforce any rights you have under applicable law, including, without



xxxxxx2549

limitation, the right to: (i) accelerate all amounts due under the Agreement; (ii) foreclose upon this Mortgage and sell the Premises, either in whole or in part or in separate parcels at different times, if necessary, until the indebtedness due under the Agreement is satisfied or the Premises is exhausted, whichever occurs first; (iii) enter on and take possession of the Premises; (iv) collect the rental payments, including over-due rental payments, directly from tenants, and you are appointed as our agent and attorney-in-fact to collect any such rents by any appropriate proceeding; (v) manage the Premises, including signing, canceling and changing leases; and (vi) seek appointment of a receiver for the Premises and we hereby appoint you as our attorney-in-fact with authority to consent for us to the appointment of a receiver. This means that, among other rights you may pursue and enforce, you may arrange for the Premises to be sold, as provided by law, in order to pay off what we owe under the Agreement and under this Mortgage. If the money you receive from the sale is not enough to pay off what we owe you, we will still owe you the difference which you may seek to collect from us in accordance with applicable law. We agree that the interest rate set forth in the Agreement will continue before and after a default, entry of a judgment and foreclosure. Subject to applicable law, if you acquire the Premises at a forced sale following our default, our right to any insurance proceeds resulting from damage to the Premises prior to the acquisition shall pass to you to the extent of the sums secured by this Mortgage immediately prior to acquisition. In addition, subject to applicable law, you shall be entitled to collect all reasonable fees and costs actually incurred by you or your agents arising out of or related to this Mortgage or the Agreement, including, but not limited to, reasonable attorneys' fees and costs of foreclosure, property preservation, documentary evidence, abstracts and title reports.

ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER: As additional security, we assign to you the rents of the Premises. You or a receiver appointed by the courts shall be entitled to enter upon, take possession of and manage the Premises and collect the rents of the Premises including those past due.

RELEASE: This Mortgage shall continue in full force and effect until all of the indebtedness (including future advances) secured by this Mortgage shall have been paid in full, you shall have no further obligation to extend any credit to us under the Agreement, and you shall have executed and delivered to us a release or satisfaction of this Mortgage in recordable form, even though from time to time and for extended periods of time there may be no indebtedness owed to you under the Agreement described above and no other indebtedness hereby secured, it being the intention of the Mortgagor that this Mortgage and the title to the mortgaged Premises hereby conveyed to you shall remain in full force and effect and shall secure all indebtedness described above in this Mortgage whether now owed or hereafter incurred at any time prior to termination of this Mortgage by the means just described. You agree to execute and deliver to us a release or satisfaction of this Mortgage within a reasonable time after written demand therefore at any time there is no indebtedness secured by this Mortgage and no obligation on the part of you to extend any credit to us under the Agreement. We shall pay all costs of recordation of such release.

WAIVERS: To the extent permitted by applicable law, we waive and release any error or defects in proceedings to enforce this Mortgage and hereby waive the benefit of any present or future laws providing for stay of execution, extension of time, exemption from attachment, levy and sale and homestead exemption.

BINDING EFFECT: Each of us shall be fully responsible for all of the promises and agreements in this Mortgage. Until the Agreement has been paid in full and your obligation to make further advances under the Agreement has been terminated, the provisions of this Mortgage will be binding on us, our legal representatives, our heirs and all future owners of the Premises. This Mortgage is for your benefit and for the



xxxxxx2549

benefit of anyone to whom you may assign it. Upon payment in full of all amounts owing to you under the Agreement and this Mortgage, and provided any obligation to make further advances under the Agreement has terminated, this Mortgage and your rights in the Premises shall end.

NOTICE: Except for any notice required under applicable law to be given in another manner, (a) any notice to us provided for in this Mortgage shall be given by delivering it or by mailing such notice by regular first class mail addressed to us at the last address appearing in your records or at such other address as we may designate by notice to you as provided herein, and (b) any notice to you shall be given by certified mail, return receipt requested, to your address at PNC Bank, National Association, P.O. Box 8800 Dayton, OH 45401-8800 or to such other address as you may designate by notice to us. Any notice provided for in this Mortgage shall be deemed to have been given to us or you when given in the manner designated herein.

WAIVER OF HOMESTEAD EXEMPTION: We waive the benefit of our Homestead Exemption as to the indebtedness secured by the Agreement and this Mortgage.

GENERAL: You can waive or delay enforcing any of your rights under this Mortgage without losing them. Any waiver by you of any provisions of this Mortgage will not be a waiver of that or any other provision on any other occasion.

THIS MORTGAGE has been signed by each of us under seal on the date first above written.

 5-3-21

- MORTGAGOR - WILLIAM EDWARD KIRBY - DATE -

 5-3-2021

- MORTGAGOR - CHARNITA K KIRBY - DATE -



xxxxxx2549

The State of Alabama

Jefferson County

I, Scottie Hughes hereby certify that
William Edward Kirby and Charnita K Kirby

whose name(s) is/are signed to the foregoing conveyance, and who is/are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she/they executed the same voluntarily on the day the same bears date. Given under my hand this 3rd day of May A.D. 2021.



Scottie Hughes
Notary Public

My Commission Expires: 12/24/2021



INDIVIDUAL ACKNOWLEDGMENT

State Of: **Alabama**

County of: **Jefferson**

On this, The 3 day of May, 2021, before me, Scottie Hughes, the undersigned Notary Public, personally appeared William Edward Kirby and Charnita K Kirby, to me known to be the individual(s) described in and who executed the Mortgage, and acknowledged that he/she/they signed the Security Instrument as his/her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal on the date first written above.

Scottie Hughes Acting in Jefferson County.
Notary signature

Scottie Hughes My Commission expires: 12/14/2024
Notary's printed name

Please have Notary affix stamp and/or seal, as required by your state, below the line.



EXHIBIT "A" LEGAL DESCRIPTION

Page: 1 of 1

Account #: 27454409
Order Date : 02/23/2021
Reference : 7600272549
Name : WILLIAM E. KIRBY
Deed Ref : 20141113000358350

Index #:
Registered Land:
Parcel #: 24 5 16 0 000 002.004

SITUATED IN THE COUNTY OF SHELBY, STATE OF ALABAMA:

LOT 4-B, ACCORDING TO A RESURVEY OF LOT 3A, OF A RESURVEY OF LOTS 2 AND 3 AND 4 OF CAHABA RIVER GETAWAYS SUBDIVISION, AS RECORDED IN MAP BOOK 32, PAGE 57, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, BEING SITUATED IN SHELBY COUNTY, ALABAMA.

BEING THE SAME PROPERTY CONVEYED BY DEED RECORDED IN INSTRUMENT NO. 20141113000358350 OF THE SHELBY COUNTY, ALABAMA RECORDS.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
10/20/2021 08:31:11 AM
\$139.30 JOANN
20211020000509400

Allen S. Bayl