

This instrument was prepared by and return to:

Robert Leroux
Merrill Lynch Credit Corporation
4802 Deer Lake Drive East
Jacksonville, Florida 32246
ATTN: Post Closing Department

ORIGINAL

Inst # 1998-45094

11/13/1998-45094
10:48 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
22.00
006 MEL

NOTE MODIFICATION AGREEMENT

This **Note Modification Agreement** (this "Agreement") is entered into this October 21, 1998, by and between Jon H. Auerbach and Tanya L. Auerbach (herein individually and collectively referred to as "Borrower"), and Merrill Lynch Credit Corporation, a Delaware corporation (herein referred to as "Lender").

WHEREAS, Lender is the owner and holder of that certain mortgage, deed of trust, or security deed (the "Security Instrument"), dated June 19, 1998, made by Borrower as trustor or mortgagor, as the case may be, to Lender as beneficiary or mortgagee, as the case may be, recorded on 06/29/98 as , , DOC#1998-24164 of the Public/Land Records of Shelby, securing a debt evidenced by a promissory note ("the Note") dated June 19, 1998, in the original principal amount of \$357,341.00, which Security Instrument encumbers the property more particularly described in the attached Exhibit A; and

WHEREAS, the Borrower, being the owner in fee simple of all of the property encumbered by the Security Instrument, has requested that Lender modify the Note and the Security Instrument (but only to the extent that the Note is incorporated therein by reference), and the parties have mutually agreed to modify the terms thereof in the manner hereafter stated.

Post Closing Note Modification Agreement-5/7/10 ARM (Interest Only)
CLNMAGIO (AL,AZ,AR,CA,CO,CT,IL,IN,KY,MD,MI,MO,NV,NJ,NM,NY,NC,OH,PA,SC,TN,TX,VA)
(08/27/98)
3420981

Cahaba Title

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

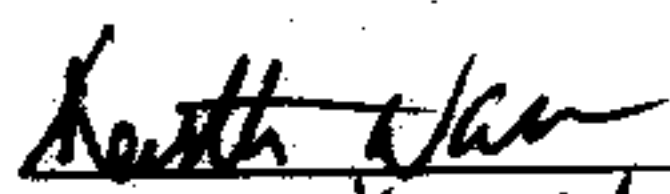
1. As of the date of execution hereof, the terms and conditions of the Note, and the corresponding portions of the Security Instrument, are modified in the following respects, only:
 - a) Beginning on the first day of December, 1998, and on the first day of every month thereafter until the first day of November, 2005, Borrower will pay only the interest on the unpaid principal balance of the Note at an initial yearly fixed rate of 6.875%. Borrower's initial monthly payment will be in the amount of \$2,047.27.
 - b) Beginning on the first day of December, 2005, Borrower will pay monthly payments of principal and interest and the initial fixed interest rate will change to an adjustable interest rate. The adjustable interest rate may change on that day every 12th month thereafter. The date on which the initial fixed interest rate changes to an adjustable interest rate, and each date on which the adjustable interest rate could change, is called a "Change Date."
 - c) The interest rate at the first Change Date will not be greater than 12.875% or less than 2.75%. Thereafter, the adjustable interest rate will never be increased or decreased on any single Change Date by more than two percentage points (2.0%) from the rate of interest paid for the preceding 12 months. My interest rate will never be greater than 12.875%.
 - d) The monthly payments, determined precisely in the manner stated in the Note and giving effect to the modifications stated herein, shall continue until the entire indebtedness is fully paid, except that the final payment of the remaining indebtedness shall be due and payable on November 1, 2028 (the "Maturity Date").
 - e)
2. The unpaid principal balance due under the Note as of the date of this Agreement is \$357,341.00.
3. Borrower warrants that Borrower has no existing right of offset, counterclaim, or other defenses against enforcement of the Note and Security Instrument by Lender and that, if any such right or defenses do exist, they are hereby waived and released.

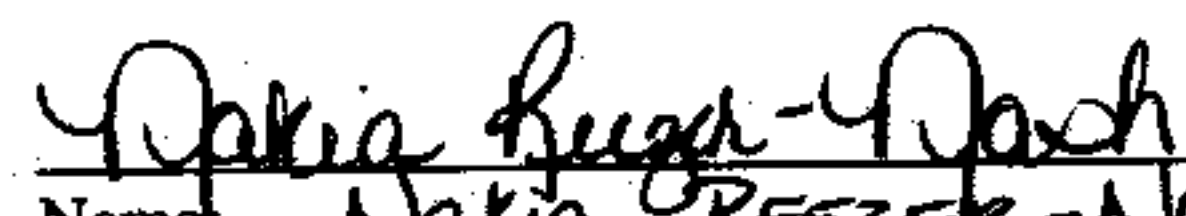
4. This Agreement shall supersede for all purposes any and all conflicting terms and conditions provided for in the Note and Security Instrument, but shall be construed as supplemental as to any nonconflicting term or condition stated therein. The Note and Security Instrument shall continue to evidence and secure the Borrower's indebtedness thereunder as modified herein. The parties intend and agree that this Agreement is not a novation of Borrower's loan obligation. Except to the extent provided otherwise herein, neither the Note nor the Security Instrument is modified by this Agreement and they shall remain in full force and effect until the obligations secured thereunder are paid in full and the Security Instrument is satisfied of record.
5. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the parties hereto.
6. If the spouse of the Borrower, , is not obligated on the Note, (i) then this Agreement has been executed by the spouse of the Borrower only to evidence his/her consent to the modifications of the Note and Security Instrument described herein and to the other terms hereof; and (ii) said spouse shall not be personally obligated to pay the sums owed under the terms of the Note and this Agreement.
7. This Agreement contains the entire agreement of the parties hereto with regard to modification of the Note and supersedes any prior written or oral agreements between them concerning the subject matter contained herein, and no party hereto has relied upon any representations except such as are specifically set forth herein and no party hereto has relied upon any representations except such as are specifically set forth herein. This Agreement may not be modified, changed or amended except by written instrument signed by Lender and Borrower. This Agreement shall be governed by the laws of the state in which the property encumbered by the Security Instrument is located.

Executed on the date first above written.


Name: DAVID J. DYER
(Witness)


Name: Brigitte Shen
(Witness)

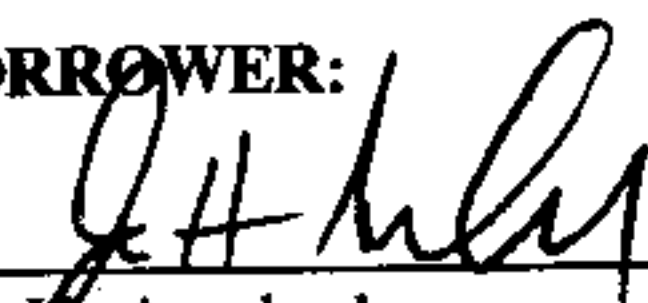

Name: Kerstian NASH
(Witness)


Name: Nalia REIZER-Nash
(Witness)

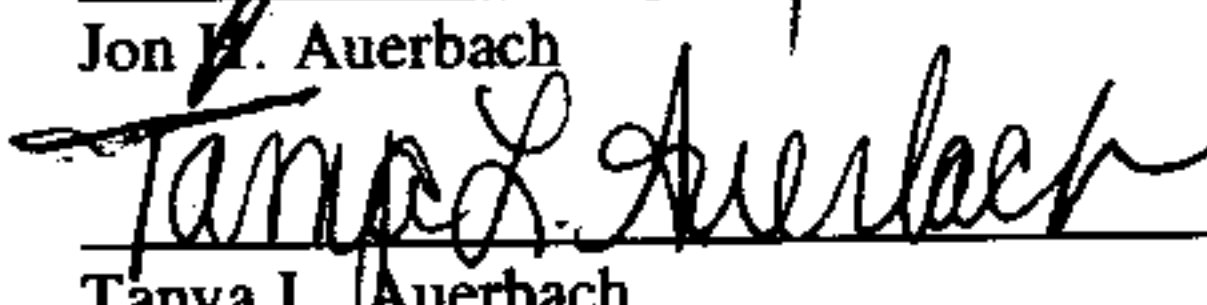
(Seal)

(Seal)

BORROWER:

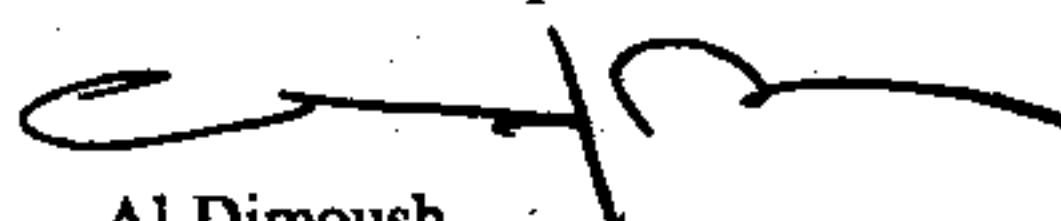


Jon E. Auerbach (Seal)



Tanya L. Auerbach (Seal)

MERRILL LYNCH CREDIT CORPORATION,
a Delaware corporation


Al Dimoush
Vice President

STATE OF Alabama
COUNTY OF Shelby

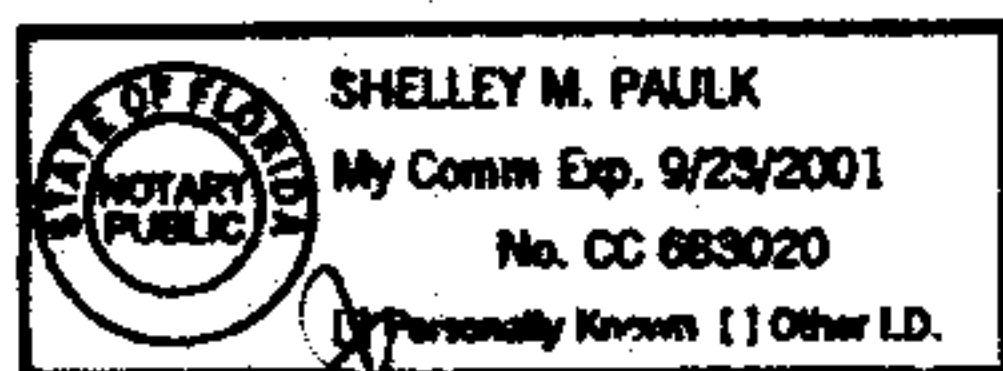
On 10/23/, 1998, before me, the undersigned, a Notary Public in and for said state, personally appeared Don Overbach personally known to me (or proved to me on the basis of satisfactory evidence in the form of _____) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged 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) executed the instrument as his/her/their free act and deed.

WITNESS my hand and official seal.

Name: Arnieo L. Dunkling
Notary Public, State of Alabama
Commission No.: 58 218
My Commission Expires: 9/17/2000

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 1st day of NOV, 1998, by Al Dimoush, Vice President of Merrill Lynch Credit Corporation, a Delaware corporation, on behalf of the corporation. He/she is personally known to me.




Name: SHELLEY M PAULK
Notary Public, State of Florida
Commission No.: CC683020
My Commission Expires: 9/23/2001

EXHIBIT A

All that parcel of land in Shelby County, State of Alabama, to-wit: Lots 77,78, and 80, according to the final record plat of Greystone Farms, Milners Crescent Sector-Phase 3, as recorded in Map Book 23, page 71 in the office of the Judge of Probate of Shelby County, Alabama, being situated in Shelby County, Alabama.

Also known as:

4120 Milners Lane , Hoover, Alabama 35242

Inst # 1998-45094

**11/13/1998-45094
10:48 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 HEL 22.00**