

ADJUSTABLE RATE LOAN MODIFICATION AGREEMENT  
(Providing for Fixed Interest Rate)

THIS LOAN MODIFICATION AGREEMENT, made this 17 TH day of DECEMBER, 1998, by and between EDWARD K. SMITH AND ANNIE B. SMITH, HUSBAND AND WIFE hereinafter called "MORTGAGOR" and SOUTHTRUST MORTGAGE CORPORATION, hereinafter called "MORTGAGEE".

RECITALS:

A. "MORTGAGEE is the owner and holder of that certain Mortgage, Deed of Trust or Deed to Secure Debt, ("the Security Instrument"), dated MAY 19TH, 1998 made by the MORTGAGOR to MORTGAGEE, recorded in INST # 1998-19410 Public Records of SHELBY, County, State of ALABAMA securing a debt evidenced by a NOTE dated MAY 19 TH, 1998, in the original amount of \$ 180,000, which Security Instrument encumbers property more particularly described in said Security Instrument.

B. MORTGAGOR, the owner in fee simple of all of the property subject to the Security Instrument, has requested MORTGAGEE to modify Note and Security Instrument, and the parties have mutually agreed to modify the terms thereof in the manner hereinafter appearing.

"NOW, THEREFORE, in consideration of the mutual promises and agreements exchanged, the parties hereto agree as following, notwithstanding anything to contrary contained in the Note, Security Instrument or any Rider thereto.

1. As of this date the unpaid principal balance of the NOTE is \$ 180,000 and the interest has been paid to JANUARY 1ST, 1998.

2. The terms and provisions of the NOTE are amended and modified in accordance with the terms and provisions which provide:

See fixed rate note attached hereto as Exhibit "A", which is incorporated into this modification as though written herein.

3. The terms and provisions of the Security Instrument and/or the Rider are amended and modified in accordance with the terms and provisions which provide:

The Adjustable Rate Rider, recorded as part of the Mortgage (recorded on MAY 28 TH, 1998 in INST 1998-19410) is hereby deleted. The Mortgage is also amended to require the full debt, if not paid earlier, be due and payable on JUNE 1, 2028 (Maturity Date). The PUD Rider is amended to "Covenants, Conditions and Restrictions recorded in INST 1998-19410". All other terms and conditions remain unchanged.

4. Nothing herein invalidates or shall impair or release any covenants, condition, agreement or stipulation in the Note, Security Instrument and/or Rider and the same, except as herein modified, shall continue in full force and effect, and the undersigned further covenant and agree to perform and comply with and abide by each of the covenants, agreements, conditions and stipulations of the Note, Security Instrument and/or Rider, which are not inconsistent herewith.

5. All MORTGAGEE'S rights against all parties, including but not limited to all parties secondarily liable, are hereby reserved.

6. This Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators and assigns, or successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto the day and year first above written.

12/28/1998-51438  
08:53 AM CERTIFIED  
1 SHELBY COUNTY JUDGE OF PROBATE  
004 MEL 17.00

inst 1998-51438

CLAYTON T. SWEENEY, ATTORNEY AT LAW

Edward L. Smith  
EDWARD L. SMITH Mortgagor  
Annie B. Smith  
ANNIE B. SMITH Mortgagor

ATTEST

Witness: Jean Duffel  
Witness: Robin C. Smith

SOUTHTRUST MORTGAGE CORPORATION

By: Debbie Roberson  
Its: ASST. VICE PRESIDENT

STATE OF ALABAMA )

COUNTY OF SHERMAN JEFFERSON )

The foregoing instrument was acknowledged before me, this 17TH day of DECEMBER, 1998, by EDWARD L. SMITH AND ANNIE B. SMITH, HUSBAND AND WIFE who produced driver's license as identification (who is personally known to me) and who did not take an oath.

Clayton T. Sweeney  
Notary Public  
Printed Name of Notary

SEAL

Serial Number, if any

5/29/99

Commission Expiration Date

STATE OF ALABAMA )

COUNTY OF SHERMAN JEFFERSON )

The foregoing instrument was acknowledged before me, this 17TH day of DECEMBER, 1998, by Jean Duffel and Robin C. Smith and DEBBIE ROBERSON AVP as AVP of SouthTrust MORTGAGE CORPORATION organized and existing under the laws of the DELAWARE, on its behalf. The foregoing officers who are personally know to me and did not take an oath.

Sara Joyce Armstrong  
Notary Public  
SARA Joyce ARMSTRONG  
Printed Name of Notary

SEAL

Serial Number, if any

Commission Expiration Date



## NOTE

MAY 19, 1998

BIRMINGHAM

[City]

ALABAMA

[State]

1067 HERMITAGE CIRCLE, BIRMINGHAM, ALABAMA 35242-

[Property Address]

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 180,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is SOUTHTRUST MORTGAGE CORPORATION

210 WILDWOOD PARKWAY, BIRMINGHAM, ALABAMA 35209

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

### 2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 6.825 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

### 3. PAYMENTS

#### (A) Time and Place of Payments

I will pay principal and interest by making payments every month.

I will make my monthly payments on the 1ST day of each month beginning on FEBRUARY 1, 1998

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on JUNE 1, 2028, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "maturity date."

I will make my monthly payments at SOUTHTRUST MORTGAGE CORPORATION or at a different place if required by the Note Holder.

#### (B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 1,159.85

### 4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

### 5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

### 6. BORROWER'S FAILURE TO PAY AS REQUIRED

#### (A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

#### (B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

#### (C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

#### (D) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

#### (E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

## 7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

## 8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

## 9. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

## 10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of these conditions are described as follows:

**Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this 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 this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

  
EDWARD L. SMITH (Seal)  
Social Security Number [REDACTED] - Borrower

  
ANNIE B. SMITH (Seal)  
Social Security Number [REDACTED] - Borrower

\_\_\_\_\_  
(Seal)  
Social Security Number \_\_\_\_\_ - Borrower

\_\_\_\_\_  
(Seal)  
Social Security Number \_\_\_\_\_ - Borrower

\_\_\_\_\_  
(Seal)  
Social Security Number \_\_\_\_\_ - Borrower

\_\_\_\_\_  
(Seal)  
Social Security Number \_\_\_\_\_ - Borrower

[Sign Original Only]

Inst # 1998-011438 Form 320 11438 Page 2 of 2

12/28/1998-51438  
08:53 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 MEL 17.00