

This instrument prepared by: Elaine Brown
Ln # 1706235
Century Bank
1680 Fruitville Road
Sarasota, FL 34236

Inst # 1999-09231

03/05/1999-09231
11:15 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
005 CRH 19.50

NOTE AND MORTGAGE MODIFICATION AGREEMENT

THIS AGREEMENT, dated this 7TH day of JANUARY, 1999, by and between TIMOTHY D BENNETT AND LAURA GRACE BENNETT, HUSBAND AND WIFE("Borrower") and CENTURY BANK, FSB ("Lender").

RECITALS

A. Borrower is the owner in fee simple of that certain real property, situated, lying and being in SHELBY County, ALABAMA, more particularly described as follows:

LOT 45, ACCORDING TO THE SURVEY OF SECOND SECTOR, FIELDSTONE PARK, AS RECORDED IN MAP BOOK 16, PAGE 114, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

Which has the address of 1708 FIELDSTONE CIRCLE, HELENA, ALABAMA 35080

B. On MARCH 25, 1993, Borrower, executed and delivered to THE HUTSON COMPANY, INC. ("Mortgagee"), a Note in the original principal amount of \$96,950.00 (the "Note"), and Mortgage securing payment thereof (the "Mortgage"), said Mortgage being recorded in Official Records Inst. 1993-08413, of the Public Records of SHELBY County, ALABAMA. The Mortgage was subsequently assigned to FIRST LIBERTY BANK pursuant to Assignment of Mortgage dated MARCH 25, 1999, as filed of public record in the Official Records Inst. 1993-08414, of the Public Records of SHELBY County, ALABAMA. The Mortgage was subsequently assigned to LIBERTY MORTGAGE CORPORATION pursuant to Assignment of Mortgage dated MAY 04, 1993, as filed of public record in the Official Records INST. 1993-29718, of the Public Records of SHELBY County, ALABAMA. The Mortgage was subsequently assigned to COWGER & MILLER MORTGAGE COMPANY pursuant to Assignment of Mortgage dated NOVEMBER 17, 1993, as filed of public record in the Official Records Inst. 1994-01001, of the Public Records of SHELBY County, ALABAMA. The Mortgage was subsequently Assigned to Lender pursuant to Assignment of Mortgage dated MARCH 01, 1995, as filed of public record in the Official Records Inst. 1995-09677, of the Public Records of SHELBY County, ALABAMA.

C. The Note, Mortgage and any and all other related loan documents executed and delivered by Borrower to Lender in connection with the loan transaction evidenced thereby, are hereinafter collectively referred to in this Agreement as the "Loan Documents."

D. By this Agreement, Borrower and Lender intend to provide for the amendment and modification of the terms and provisions of the Loan Documents, as set forth herein.

NOW THEREFORE, in consideration of the above recitals and of the mutual covenants contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged among the parties, it is hereby agreed as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein.

2. **Confirmation of Loan Documents.** Borrower, by execution of this Agreement, acknowledges that the Note, Mortgage, and other Loan Documents given by Borrower in favor of Lender, as assigned to Mortgagee, constitute good and valid obligations and liens on the property described therein and that each and every agreement constitutes a good, valid, and enforceable obligation of Borrower in favor of Mortgagee pursuant to the terms and provisions of the Loan Documents.

3. **Principal Balance.** At the time and date of execution of this Agreement, Borrower acknowledges that the current outstanding principal balance of the Note is \$ 90,896.54

4. **Interest Rate.** The terms of the Loan Documents are, by execution hereof, amended and modified so as to provide for an amended rate of interest at which the outstanding principal balance of the Note will accrue interest thereon. The current interest rate as provided in the Note is 7.625 %. The rate of interest is hereby modified to provide for a fixed rate of interest of 6.625% per annum on the unpaid principal balance until all outstanding principal has been paid in full. Beginning with the payment due on FEBRUARY 01, 1999, Borrower will make monthly payments of principal and interest in the amount of \$798.07, and on that day every month until all of the principal and outstanding accrued interest and all other charges due and payable by Borrower under the terms and provisions of the Loan Documents have been paid in full.

5. **Maturity Date.** Borrower acknowledges that, pursuant to the terms and provisions of the Note, Mortgage and Loan Documents, the New Maturity Date will be JANUARY 01, 2014.

6. **Ratification.** Except as herein modified and amended, the terms and conditions of the Note, the Mortgage, the Loan Documents and all of the documents recited herein or executed with respect to the foregoing are hereby ratified and affirmed and shall remain in full force and effect.

7. **Warranties and Representations.** Borrower hereby affirms, warrants, and represents that all of the warranties and representations made in the Note, Mortgage, Loan Documents, and any other documents or instruments recited herein or executed with respect thereto, directly or indirectly, are true and correct as of the date hereof and that Borrower is not in default of any of the foregoing nor aware of any default with respect thereto, and that Borrower does not have any defense or right of offset with respect to any indebtedness to Mortgagee.

8. **No Novation.** It is the intent of the parties that this instrument shall not constitute a novation and shall in no way adversely affect the lien priority of the Mortgage referred to above. In the event that this Agreement, or any part hereof, shall be construed by a Court of competent jurisdiction as operating to affect the lien priority of said Mortgage over the claims which would otherwise be subordinate thereto, then to the extent that third persons acquiring an interest in such property between the time of execution of the Mortgage and the execution hereof are prejudiced thereby, this Agreement, or such portion hereof as shall be so construed, shall be void and of no force and effect and this Agreement shall constitute, as to that portion, a subordinate lien on the collateral, incorporating by reference the terms of the Mortgage, and which Mortgage then shall be enforced pursuant to the terms therein contained, independent of this Agreement; provided, however, that notwithstanding the foregoing, the parties hereto, as between themselves, shall be bound by all terms and conditions hereof until all indebtedness owing from Borrower to Mortgagee shall have been paid in full.

9. **Senior Lien.** Borrower warrants and represents that the Loan Documents are and constitute valid first priority liens on the property described therein, either real or personal, as modified hereby, and with a first lien priority as stated and provided herein. If at any time Mortgagee shall determine that the lien priority of its Loan Documents as stated therein is invalid or in jeopardy, or if at any time Mortgagee is unable to obtain Title Insurance insuring such liens as valid liens with the priority stated therein on the collateral described therein, then Mortgagee shall have the option of declaring the entire indebtedness together with all accrued interest to be immediately due and payable in full.

10. **Recordation.** The recording of this Agreement in the Public Records of SHELBY County, ALABAMA, shall evidence the closing of the loan modification transaction described herein.

11. **Miscellaneous.**

- (a) Paragraph headings used herein are for convenience only and shall not be construed as controlling the scope of any provision hereof.
- (b) This Agreement shall be governed by and construed in accordance with the laws of the State of FLORIDA.
- (c) Time is of the essence of this Agreement.

(d) As used herein, the neuter gender shall include the masculine and feminine genders, and vice versa, and the singular the plural, and vice versa, as the context demands.

(e) In the event that Mortgagee resorts to litigation to enforce this Agreement, all costs of such litigation, to include reasonable attorney's fees through all trials, appeals and proceedings, to include, without limitation, any proceedings pursuant to the Bankruptcy Laws of the United States, shall be paid by Borrower who shall be jointly and severally liable therefor.

(f) This Agreement shall inure to the benefit of and be binding upon the parties hereto as well as their successors and assigns, heirs and personal representatives.

11. **JURY TRIAL WAIVER.** MORTGAGEE AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE BANK ENTERING INTO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the 19th day of JANUARY, 1999.

Signed, sealed and delivered in the presence of:

Witness

Lynda Juneau
Print Name of Witness

REBECCA MIGUELES
Print Name of Witness

Lynda Juneau
R Miguels

Valerie Severn
Print Name of Witness

Borrower:

Timothy D. Bennett
TIMOTHY D BENNETT

Laura Grace Bennett
LAURA GRACE BENNETT

MORTGAGEE:

CENTURY BANK, FSB

BY: Jack H. Neese
Jack H. Neese

Valerie Severn

Senior Vice President

Linda G. Mitchell

Print Name of Witness

Linda G. Mitchell

STATE OF Alabama
COUNTY OF Jefferson

The foregoing instrument was acknowledged before me this 19th day of January, 1999, TIMOTHY D BENNETT AND LAURA GRACE BENNETT who is personally known to me or who has produced a driver's license as identification and who did take an oath.

Dawn A. Bell

Notary Public

My Commission expires: 3-31-2002

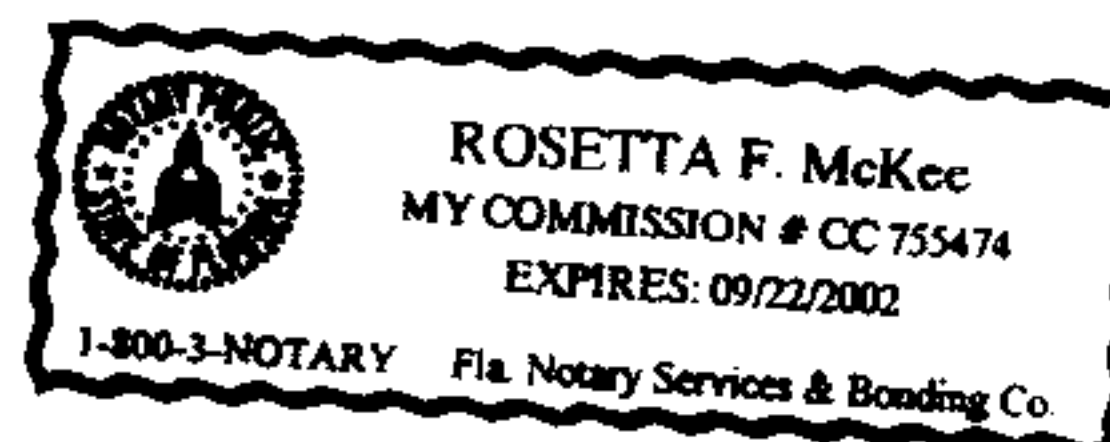
STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me on this 27th day of January, 1999 by JACK H. NEESE, Senior Vice President for Century Bank, FSB a Florida corporation, who is personally known to me or who has produced a driver's license as identification and who did take an oath and that the seal affixed hereto is the true corporate seal of said corporation.

Rosetta F. McKee

Notary Public

State of Florida



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