

Inst # 2000-11769

04/10/2000-11769
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SHELBY COUNTY JUDGE OF PROBATE
010 SNA 31.00

AFTER RECORDING RETURN TO:
Bank of America Mortgage

[Space Above this Line for Recording Data]
Prepared by

101 East Main Street, Suite 400
Louisville, KY 40202

LOAN ASSUMPTION AGREEMENT

Loan No.: 0021278866A

THIS LOAN ASSUMPTION AGREEMENT ("Agreement"), made effective as of March 31, 2000, between Michelle Jaquess

("Seller")

and Michael Kevin Jaquess

("Borrower")

and BA Mortgage, LLC

("Lender"),

amends and supplements one certain promissory note ("Note") dated October 15, 1997, in the original principal amount of \$ 130,055.00 executed by M. Kevin Jaquess & Michelle Jaquess

("Maker")

payable to the order of Compass Bank

in accordance with the terms set forth therein. Seller and Borrower acknowledge that Lender is the holder and the owner of the Note or is acting for the holder and owner of the Note and understands that Lender may transfer the Note, as amended by this Agreement, and that anyone who takes the Note by transfer and who is entitled to receive payments under the Note is called the "Lender" in this Agreement. The Note is secured by a Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated October 15, 1997, and filed for record on Shelby County, Alabama, in the real property records of under

Said Security Instrument conveys the real and personal property described in such Security Instrument (the "Property") located at:

(Property Address): 109 Aaron Parc Ct., Pelham, AL 35124

(Legal Description):

Lot 12, according to the Survey of Aaron Parc, as recorded in Map Book 22, Page 40, in the Probate Office of Shelby County, Alabama.

Borrower is purchasing the above described property from Seller and desires to assume the payment of the Note and the covenants, conditions and obligations of the Security Instrument. Lender who is or who represents the legal holder and owner of the Note and of the lien(s) securing the same has agreed at the request of the Seller to allow the Borrower's assumption of the balance of the indebtedness evidenced by the Note as part of the consideration for the purchase of the property.

For and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by each of the parties to the other, the receipt and sufficiency of which are hereby acknowledged and confessed, and 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. **Acknowledgment and Assumption of Unpaid Principal Balance:** Seller and Borrower acknowledge that as of March 30, 2000, the amount payable under the Note and secured by the Security Instrument (the "Unpaid Principal Balance") is U.S. \$ 125,245.53. Borrower hereby expressly assumes the payment of the indebtedness evidenced by the above described Note and promises to pay jointly and severally to the order of the Lender the sum of U.S. \$ 125,245.53 (the "Principal Balance"), consisting of the unpaid principal balance less any reductions of principal made by Seller, any accrued but unpaid interest, and any additional sums advanced by Lender. Borrower also agrees to perform and comply with all covenants, conditions and obligations of the Security Instrument, as amended herein.

2. **Release of Liability:** Seller does hereby transfer and convey to Borrower all of their right, title and interest with respect to any payment heretofore or hereafter received by Lender in connection with the above-described Promissory Note and Security Instrument securing same. Lender releases Seller from any and all liability on or under the Promissory Note and Security Instrument securing such debt.

3. **Assumption of Original Terms:** The parties hereto agree to accept the following modifications in the terms of the Note:

Interest will be charged on the Principal Balance until the full amount of principal has been paid. Borrower will pay interest at a yearly rate of 7.375 % as set forth below. The Borrower promises to make initial monthly payments of principal and interest of U.S. \$ 898.26 , beginning on April 1, 2000 , and continuing thereafter on the 1st day of each succeeding month until principal and interest are paid in full. If on September 1, 2026 ("Maturity Date"), the Borrower still owes amounts under the Note and the Security Instrument, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date. The Borrower will make such payments at Bank of America, P.O. 35140, Louisville, KY 40232-5140

, or at such other place as Lender may require.

4. **Transfer of Escrow Funds to Borrower:** Seller assigns and transfers to Borrower all funds on deposit for payment of taxes, homeowner association dues, insurance premiums and any applicable refunds. Borrower understands that it is Borrower's responsibility to obtain hazard insurance on the Property and that Seller's policy will not inure to Borrower's benefit.

5. **Waiver of Due-on-Transfer Clause:** In consideration of the assumption of the Note and Security Instrument by Borrower, and the modification of the Note (if any), as described above, the Lender agrees to waive and relinquish its right under the Security Instrument to declare all sums secured by the Deed of Trust immediately due and payable by reason of the sale and transfer by Seller to Borrower, it being understood and agreed that this waiver and relinquishment applies only to said sale and not to any future sales or transfers. In addition, Seller hereby agrees that if the prepayment of the Note requires a refund of a portion of the interest previously collected in order to comply with the applicable laws of this state, Seller assigns and transfers to Borrower any and all right and interest in and to any such refund, and Lender is hereby authorized to pay or credit such refund to Borrower.

6. **Late Charges for Overdue Payments:** If the Lender has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, Borrower will pay a late charge to the Lender. The amount of the charge will be 5.000 % of the overdue payment of principal and interest. Borrower will pay this late charge promptly but only once on each late payment. The late charge is not in lieu of any other remedy of Lender, including any default remedy, and will not be charged if such charge would constitute interest in excess of the maximum permitted by state law.

7. **Borrower's Right to Prepay:** Borrower has 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 Borrower makes a prepayment, Borrower will tell the Note Holder in writing that Borrower is doing so.

8. **Renewal and Extension of Maturity:** This Agreement is a "written extension" as provided by the applicable laws of this state. It is the intention of the parties that all liens and security interests described in the Security Instrument are hereby renewed and extended until the Indebtedness evidenced by the Note, as renewed, modified and extended hereby, has been fully paid. The parties acknowledge and agree that such extension, renewal, amendment, modification or rearrangement shall in no manner affect or impair the Note or the liens and security interests securing same, the purpose of this Agreement being simply to provide for the assumption of the indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note (including if applicable any and all vendor's liens securing the Note), which are expressly acknowledged by the Seller and the Borrower to be valid and subsisting, and in full force and effect so as to fully secure the payment of the Note. The Seller and the Borrower hereby expressly waives the benefit of any and all statutes of limitation which might otherwise inure to Seller's and the Borrower's benefit, or be in any way applicable to Seller's and the Borrower's obligations under the terms of any and all instruments described herein.

9. **Usury:** No provisions of this Agreement or the Note or any instrument evidencing or securing the Note, or otherwise relating to the indebtedness evidenced by the Note, shall require the payment or permit the demand, collection, application or receipt of interest in excess of the maximum permitted by applicable state or federal law. If any excess of interest in such respect is herein or in any such other instrument provided for, or shall be adjudicated to be so provided for herein or in any such instrument, the provisions of this paragraph shall govern, and neither Seller, Borrower nor any endorser or guarantor of the Note nor their respective heirs, personal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent it is in excess of the amount permitted by applicable law. It is expressly stipulated and agreed to be the intent of Seller, Borrower and Lender to at all times comply with the usury and other laws relating to the Note and the Security Instrument and any subsequent revisions, repeals or judicial interpretations hereof, to the extent applicable thereto. In the event Lender ever receives, collects or applies as interest any such excess, including but not limited to any "late charges" collected, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of the Note, and, if upon such application the principal balance of the Note is paid in full, any remaining excess shall be forthwith paid to Borrower and the provisions of the Note and the Security Instrument shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of execution of any new document, so as to comply with the then applicable law, but so as to permit the recovery of the fullest amount otherwise called for thereunder. In determining whether or not the interest paid or payable under any specific contingency exceeds the maximum interest allowed to be charged by applicable law, Borrower and Lender shall, to the maximum extent permitted under applicable law, amortize, prorate, allocate and spread the total amount of interest throughout the entire term of the Note so that the amount or rate of interest charged for any and

all periods of time during the term of the Note is to the greatest extent possible less than the maximum amount or rate of interest allowed to be charged by law during the relevant period of time.

10. **Loan Documentation:** As amended hereby, the provisions of the Note and Security Instrument shall continue in full force and effect, and the Seller and Borrower acknowledge and reaffirm Seller and Borrower's liability to Lender thereunder. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instruments, this Agreement shall govern. 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. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement. Any default by Borrower in the performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said Security Instrument.

11. **Hazardous Substances:** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. As used in this Paragraph 11, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph 11, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

12. **Partial Invalidity:** In the event any portion of the sums intended to be secured by this Agreement cannot be lawfully secured, payments in reduction of such sums shall be applied first to those portions not secured.

13. **Miscellaneous:** Borrower hereby agrees to pay all costs and expenses incurred by Lender in connection with the execution and administration of this Agreement, the assumption, renewal and extension and modification of the Note and Security Instrument and any other documents executed in connection herewith. Lender does not, by its execution of this Agreement, waive any rights it may have against any person not a party hereto.

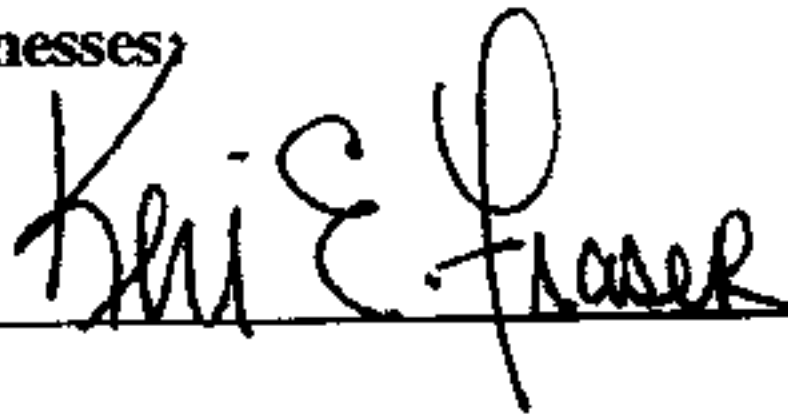
This Agreement may be executed in multiple counterparts, each of which shall constitute an original instrument, but all of which shall constitute one and the same Agreement.

14. **No Oral Agreements:** The written Loan Agreements represent the final agreements between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.

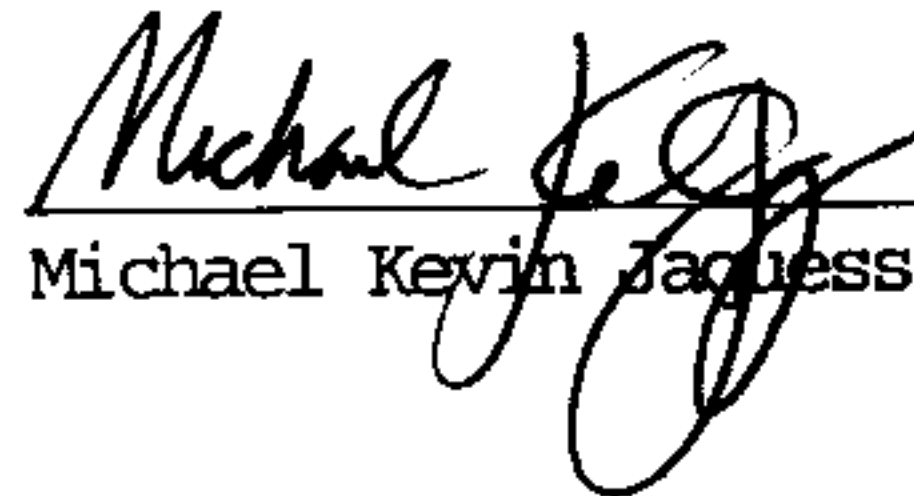
There are no unwritten oral agreements between the parties.

EXECUTED as of the day and year first above written.

Witnesses:



Borrower:



Michael Kevin Jaquess

Witnesses:

Kenn E. Jones

Seller:

Michelle Jaquess
Michelle Jaquess

SELLER'S ADDRESS:

BORROWER'S ADDRESS:
109 Aaron Parc Ct.
Pelham, AL 35124

Witnesses:

Delischia L. Thomas
Lynn Smith

ACCEPTED AND AGREED TO BY THE
OWNER AND HOLDER OF SAID NOTE:
BA Mortgage, LLC

By: Diane Blanton

Title: DIANE BLANTON, ASSISTANT SECRETARY

[See attached Acknowledgment(s)]

INDIVIDUAL ACKNOWLEDGMENT

Loan No.: 0021278866A

State of ALABAMA §

County of Jefferson §

[name and style of officer],

I,
hereby certify that Michael Kevin Jaquess

whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand this 10th day of April, A.D. 2000.

(Seal)

Keri E. Fraser
MY COMMISSION EXPIRES SEPTEMBER 11, 2001

Style of Officer

Individual Acknowledgment (Alabama)

THE COMPLIANCE SOURCE, INC.

To Order Call: (972) 980-2178 • Fax (972) 392-2891

www.compliance-source.com



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06402AL 08/98

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INDIVIDUAL ACKNOWLEDGMENT

Loan No.: 0021278866A

State of ALABAMA §

County of Jefferson §

I,
hereby certify that Michelle Jaquess

[name and style of officer],

whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand this 10th day of April, A.D. 2000.

(Seal)

Kelli E. Fraser
MY COMMISSION EXPIRES SEPTEMBER 11, 2001
SEPTEMBER 11, 2001
Style of Officer

Individual Acknowledgment (Alabama)

THE COMPLIANCE SOURCE, INC.

To Order Call: (972) 980-2178 Fax (972) 392-2891

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CORPORATE ACKNOWLEDGMENT

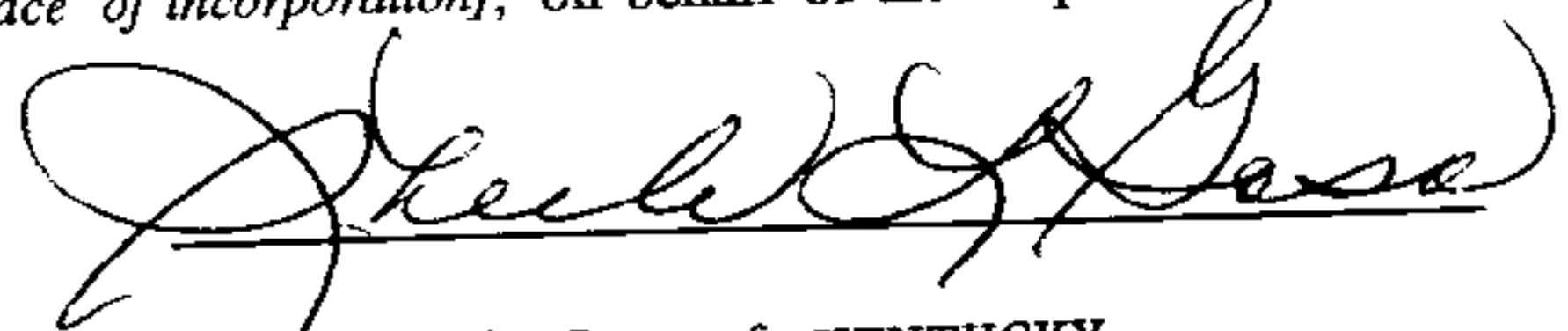
State of Kentucky
County of Jefferson

§
§
§

The foregoing instrument was acknowledged before me on MARCH 30, 2000 [date],
by DIANE BLANTON, ASSISTANT SECRETARY
[name of officer or agent, title of officer or agent] of BA Mortgage, LLC [name of corporation acknowledging],

KENTUCKY [state or place of incorporation], on behalf of the corporation.

(Seal)



Notary Public, State of KENTUCKY

My Commission Expires:
SHEILA L. GOSA
Notary Public, State at Large
State of Kentucky
My Commission Expires June 20, 2003

Corporate Acknowledgment (Multistate)
THE COMPLIANCE SOURCE, INC.
To Order Call: (972) 980-2178 Fax (972) 392-2891
www.compliance-source.com

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