

10219499

MAXIMUM PRINCIPAL INDEBTEDNESS FOR ALABAMA RECORDING TAX PURPOSES IS \$1,365.43. EXACTLY SAME COLLATERAL AS PRIOR INDEBTEDNESS DESCRIBED IN INSTRUMENT NO. 1996-18622 AND INSTRUMENT NO. 1996-18623 IN THE SHELBY COUNTY REGISTER'S OFFICE. NEW MONEY \$1,365.43.

This instrument prepared by:

✓ First Tennessee Bank, N.A.  
607 Market Street Inst # 2002-12631  
Suite 700  
Knoxville, TN 37902  
865-633-2494 03/18/2002-12631  
10:19 AM CERTIFIED

**MODIFICATION, RENEWAL, CONSOLIDATION  
AND EXTENSION AGREEMENT**

THIS AGREEMENT, made and entered into this 7 day of March, 2002, by and between **Kenneth Roy Davis, II and M. Lenise Davis, Husband and Wife**, (hereinafter individually and/or collectively referred to as the "**Borrower(s)**") of **Shelby County, Alabama**, and **FIRST TENNESSEE BANK NATIONAL ASSOCIATION**, Knoxville, Tennessee, a financial institution organized and existing under the laws of the United States of America with office and place of business in Knoxville, Knox County, Tennessee (hereinafter referred to as "**Bank**").

**WITNESSETH:**

THAT, WHEREAS, the Borrower(s) have heretofore executed and delivered to Bank a certain **Home Equity Line of Credit Agreement** dated **May 30, 1996**, in the original principal amount of **Fifteen Thousand and no/100 (\$15,000.00) DOLLARS** (the "**First Note**"), to which instrument specific reference is hereby made; and

WHEREAS, repayment of the obligation represented by said First Note was and is secured by a certain **Alabama Real Estate Mortgage** dated **May 30, 1996**, executed and delivered by the Borrower(s) said instrument being recorded in **Instrument No. 1996-18622** in the Register's Office for **Shelby County, Alabama**, to which instrument specific reference is hereby made (the "**First Mortgage**"); and

WHEREAS, the Borrower(s) have heretofore executed and delivered to Bank a certain **Home Equity Line of Credit Agreement** dated **May 30, 1996**, in the original principal amount of **Ten Thousand Eight Hundred and no/100 (\$10,800.00) DOLLARS** (the "**Second Note**"), to which instrument specific reference is hereby made; and

WHEREAS, repayment of the obligation represented by said Second Note was and is secured by a certain **Alabama Real Estate Mortgage** dated **May 30, 1996**, executed and delivered by the Borrower(s) said instrument being recorded in **Instrument No. 1996-18623** in the Register's Office for **Shelby County, Alabama**, to which instrument specific reference is hereby made (the

"Second Mortgage"); and

**WHEREAS**, the Borrower(s) are **IN DEFAULT** on said Notes and have requested that the Bank forbear from its collection remedies and to **modify, renew, consolidate, and extend** the terms of repayment for the balances owing on said Notes on the terms hereinafter set forth, said renewal loan to be secured by the terms and provisions of the First and Second Mortgages (collectively the "Mortgages"); and

**WHEREAS**, the parties hereto acknowledge and agree that the modification, renewal, consolidation, and extension of the remaining balances due and owing on the Notes is not intended as nor shall it be deemed a refinancing (as defined for Truth-in-Lending purposes) and/or a novation or extinguishment of the original underlying obligations represented by the Notes and secured by said Mortgages.

**NOW, THEREFORE**, for and in consideration of the mutual benefits to be derived herefrom and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. **Evidence of Renewed Debt.** The remaining balances of **Fifteen Thousand Six Hundred Seventy Three and 25/100 (\$15,673.25) DOLLARS** due and owing on the First Note and of **Eleven Thousand Four Hundred Ninety Two and 18/100 (\$11,492.18) DOLLARS** due and owing on the Second Note shall be consolidated and evidenced by this Agreement and/or a Renewal Note of even date herewith executed by the Borrower(s) in favor of the Bank (as provided in paragraph 8), with the remaining balances to be paid according to the terms and provisions set forth herein (collectively the "**Renewed Debt**"). The Renewed Debt shall be secured by said Mortgages which specifically state that each shall secure any renewals of the relevant Note. The Renewal Note (if any) and this Agreement and the terms and provisions set forth therein and below are hereby specifically incorporated by reference into said Mortgages.

2. **Renewal and Repayment Terms.** The repayment terms for the Renewed Debt aggregate balance of **\$27,165.43** due and owing under the Notes are hereby modified, renewed and extended to indicate that said principal balances shall accrue interest at a **fixed** rate of **Seven (7.00%) percent per annum** from the date hereof and that repayment of said principal and accrued interest shall be due and payable in **Thirty Six (36) consecutive monthly installments**, the first **Thirty Five (35)** such installments to be in the amount of **One Hundred Eighty and no/100 (\$180.00) DOLLARS** each and a final payment in the amount of all outstanding principal and

accrued interest then owing on the Maturity Date as defined herein, such monthly installments to begin on the 5<sup>th</sup> day of **November, 2001**, and to continue on the same day of each consecutive month thereafter until the 5<sup>th</sup> day of **October, 2004** (the "**Maturity Date**"). The foregoing monthly payments have been calculated on a **Thirty (30)** year amortization schedule.

3. **Late Payments.** If I/we fail to pay an installment within 15 days after its due date, I/we will pay a late charge of 5% of the past due installment.

4. It is also agreed that by this Modification Agreement that the HELOC loan numbers **4458-3703-9214-2549 and 4458-3703-9214-2556**, being paid off will forever be closed and that no future charges nor cash advances will be attempted. We also agree to destroy any and all credit cards and/or checks we might have in our possession relating to these accounts.

5. **Modification of Notes and Trust Deeds; Affirmation and Restatement.** The foregoing terms and provisions of the Renewed Debt are hereby incorporated by reference into the Mortgages, which shall CROSS-COLLATERALIZE the Renewed Debt. Except as expressly modified herein, the aforesaid Notes and Mortgages are affirmed and restated and shall otherwise remain in full force and effect as originally executed.

6. **Probate Tax.** This instrument and the transactions contemplated hereby do represent an additional extension of credit to Borrowers; therefore, \$ \_\_\_\_\_ additional probate or transfer tax is required by T.C.A. §67-4-409(b).

7. **No Novation or Release; Reservation of Rights and Forbearance.** The Bank and the Borrower(s) hereby expressly agree, understand and acknowledge that the Bank RESERVES any and all rights of recourse and liability against the Borrower(s) and the collateral more particularly described in the Mortgages. Further, the parties agree and understand that the execution and delivery of this Agreement (a) does **not represent a novation or extinguishment** of the original or underlying indebtedness described and/or represented by the Notes; (b) is **not a waiver** of any further defaults or remedies in said loan documents; and (c) is a **forbearance** of only the collection rights and remedies for the specific transactions described herein.

8. **Documentation; Insurance; Truth-in-Lending.** (a) The parties acknowledge and agree that the Bank shall retain possession, custody and control of the aforesaid Notes, Mortgages and all other documents originally executed and delivered to Bank in connection with said indebtedness until the Renewed Debt is paid in full. The Bank may require the execution and delivery of a separate Renewal Note or at the option of Bank, this Agreement shall be a memorandum or addendum to the original Notes and shall indicate that the repayment terms have been renewed, modified, consolidated, and/or extended. The Borrower(s) agree to execute and

deliver such other documents and instruments as may be necessary or appropriate for the purposes stated herein, and shall maintain and provide written proof of insurance on the collateral described in the Mortgages; and (b) **the parties acknowledge and agree that to the extent that new or additional disclosures may be required by Federal Truth-in-Lending (Regulation Z) or other relevant laws, such disclosures and/or Rights of Rescission may be made on separate forms incorporated herein by reference.**

9. **Payment of Expenses.** Unless waived by Bank, the Borrower(s) agree to pay any and all expenses incurred by the Bank in connection with the preparation, execution, and delivery of these documents, and the transactions contemplated herein, including reasonable attorneys fees and recording costs.

10. **Payment of Debt and Release of Documents.** Upon payment of the Renewed Debt and other obligations (if any) owing to Bank secured by the Mortgages, a release of the Mortgages shall be recorded within the time limits required by law and shall also constitute a release of this instrument, unless otherwise stated therein.

11. **Statute of Limitations.** It is expressly understood and agreed that the lien of said Mortgages is hereby so modified that the lien of said Mortgages will not be barred by the statute of limitations until ten (10) years from the date of maturity of the last installment of the indebtedness as above set out and that the lien of said Mortgages shall remain in full force and effect and unimpaired for a period of ten (10) years from the date of maturity of the last installment of the indebtedness, as above set out; and the Register of **Shelby** County, Alabama is hereby requested to note this modification and extension on the instrument where each Mortgage appears of record in said office.

12. **No Commitment to Further Extend, etc.** The Borrower(s) acknowledge and agree that there is no further obligation or commitment by the Bank to extend, modify or renew the **RENEWED DEBT** and/or to provide additional financing at the Maturity Date.

13. **Waiver of Jury Trial.** **THE PARTIES HERETO DO HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA OR THE STATE OF TENNESSEE AND FURTHER AGREE THAT ANY CONTROVERSIES, LEGAL ACTION OR OTHER ACTIONS TO ENFORCE THIS AGREEMENT SHALL BE TRIED BEFORE A JUDGE OR CHANCELLOR WITHOUT THE INTERVENTION OR INVOLVEMENT OF A JURY.**



IN WITNESS WHEREOF, the parties hereto have executed or have caused their duly authorized officers to execute and deliver this Agreement as of the day and year first above written.

BORROWER(S):

Kenneth Roy Davis II  
M. Louise Davis

BANK:

FIRST TENNESSEE BANK  
NATIONAL ASSOCIATION

By: Bill Beal

Title: Rehabilitation Officer

STATE OF Al. §  
COUNTY OF Shelby §

Personally appeared before me, Kenneth W. Mohler, a duly commissioned Notary Public in and for the County and State aforesaid, Kenneth Roy Davis and M. Louise Davis, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained.

Witness my hand at office this the 3rd day of Oct. 2001.

My Commission Expires: 11-18-01

Kenneth W. Mohler  
Notary Public

STATE OF TENNESSEE

COUNTY OF KNOX

§  
§  
§

Personally appeared before me, Rebecca O. Greenwood, a duly commissioned  
**Notary Public** in and for the County and State aforesaid, Bill Beal,  
with whom I am personally acquainted, and who acknowledged that he executed the within  
instrument for the purposes therein contained, and who further acknowledged that he is the  
Rehabilitation Officer of the Maker, **FIRST TENNESSEE BANK NATIONAL**  
**ASSOCIATION**, or a constituent of the Maker and is authorized by the Maker or by its constituent,  
the constituent being authorized by the Maker, to execute this instrument on behalf of the Maker.

Witness my hand at office this 7<sup>th</sup> day of March, 2002

Rebecca O. Greenwood

**Notary Public**

My Commission Expires: My commission expires Sept. 29, 2004

Inst # 2002-12631

03/18/2002-12631  
10:19 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
006 08 28.10