20050316000118140 1/8 $90.20
Shelby Cnty Judge of Probate, AL
03/16/2005 12:03:44PM FILED/CERT

After Recording Return To:
STEWART MORTGAGE INFORMATION
E-LOAN TRAILING DOCUMENTS
3910 KIRBY DRIVE SUITE 300
HOUSTON, TX 77098
800-795-5263

This instrument was prepared by:
LOUIE ZUNIGA
E-LOAN, INC.
6230 STONERIDGE MALL ROAD
PLEASANTON, CA 94588

Title # : 148270
Escrow # : 148270
LOAN #: E0353786

After Recording Return To :

Escrow Closing Services, Inc.
6230 Stoneridge Mall Road
Pleasanton, CA 94588
Recordation Department
Phone 1- 877- 501- 9135 x 2919

# MORTGAGE
# HOME EQUITY LINE OF CREDIT
## (Securing Future Advances)

MIN: 100039650003537862

**THIS MORTGAGE** is given on JANUARY 24, 2005. The mortgagor is Robert Wayne Scoggins and Pamela D. Scoggins, husband and wife as joint tenants with right of survivorship

This Mortgage is given to **"MERS". "MERS"** is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the mortgagee under this Mortgage.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS. In this Mortgage, the terms "you," "your" and "yours" refer to the mortgagor(s). The terms "we," "us" and "our" refer to E-LOAN, INC., A DELAWARE CORPORATION,

("Lender"),

whose address is 6230 STONERIDGE MALL ROAD, PLEASANTON, CA 94588.

Pursuant to a Home Equity Line of Credit Agreement dated the same date as this Mortgage ("Agreement"), you may incur maximum unpaid loan indebtedness (exclusive of interest thereon) in amounts fluctuating from time to time up to the maximum principal sum outstanding at any time of ******THIRTY EIGHT THOUSAND EIGHT HUNDRED AND NO/100********** Dollars (U.S. $38,800.00 ). All amounts due under the Agreement must be paid in full not later than FEBRUARY 1, 2015.

You agree that this Mortgage shall continue to secure all sums now or hereafter advanced under the terms of the Agreement including, without limitation, such sums that are advanced by us whether or not at the time the sums are advanced there is any principal sum outstanding under the Agreement. The parties hereto intend that this Mortgage shall secure unpaid balances, and all other amounts due to us hereunder and under the Agreement.

This Mortgage secures to us: (a) the repayment of the debt evidenced by the Agreement, with interest, and all refinancings, renewals, extensions and modifications of the Agreement; (b) the payment of all other sums, with interest, advanced under this Mortgage to protect the security of this Mortgage; and (c) the performance of your covenants and agreements under this Mortgage and the Agreement. For this purpose, and in consideration of the debt, you irrevocably mortgage, grant and convey to MERS (solely as nominee for us and our successors and assigns) and to the successors


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and assigns of MERS, the following described property located in **Shelby** County, Alabama: **See Exhibit "A"/legal description attached hereto and made a part hereof.**

**APN #: 0**

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which has the address of **109 Berkshire Manor Cir, Alabaster,**

Alabama **35007** ("Property Address");

**TOGETHER WITH** all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing is referred to in this Mortgage as the "Property." You understand and agree that MERS holds only legal title to the interests granted by you in this Mortgage, but, if necessary to comply with law or custom, MERS (as nominee for us and our successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of us including, but not limited to, releasing and canceling this Mortgage.

**YOU COVENANT** that you are lawfully seised of the estate hereby conveyed and have the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. You warrant and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

**YOU AND WE** covenant and agree as follows:

**1. Payment of Principal, Interest and Other Charges.** You shall pay when due the principal and interest owing under the Agreement and all other charges due hereunder and due under the Agreement.

**2. Application of Payments.** Unless applicable law provides otherwise, all payments received by us under the Agreement and Section 1 shall be applied by us as provided in the Agreement.

**3. Prior Mortgages; Charges; Liens.** You have disclosed to us and obtained our approval of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage. You shall perform all of your obligations under any mortgage, deed of trust or other security instruments with a lien which has priority over this Mortgage, including your covenants to make payments when due. You shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Mortgage, and leasehold payments or ground rents, if any. Upon our request, you shall promptly furnish to us all notices of amounts to be paid under this paragraph and receipts evidencing any such payments you make directly. You shall promptly discharge any lien (other than a lien disclosed to us in your application or in any title report we obtained) which has priority over this Mortgage.

If applicable law authorizes us to do so, we specifically reserve to ourself and our successors and assigns the unilateral right, upon an event of default in payment of taxes, assessments or insurance on the Property, to require, upon notice, that you pay to us on the day monthly payments are due an amount equal to one-twelfth (1/12) of the yearly taxes, and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Mortgage and ground rents on the Property, if any, plus one-twelfth (1/12) of yearly premium installments for hazard and mortgage insurance, all as we reasonably estimate initially and from time to time, as allowed by and in accordance with applicable law.

**4. Hazard Insurance.** You shall keep the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which we require insurance. This insurance shall be maintained in the amounts and for the periods that we require. You may choose any insurer reasonably acceptable to us. Insurance policies and renewals shall be acceptable to us and shall include a standard mortgagee clause. If we require, you shall promptly give us all receipts of paid premiums and renewal notices. If you fail to maintain coverage as required in this section, you authorize us to obtain such coverage as we in our sole discretion determine appropriate to protect our interest in the Property in accordance with the provisions in Section 6. You understand and agree that any coverage we purchase may cover only our interest in the Property and may not cover your interest in the Property or any personal property therein. You also understand and agree that the premium for any such insurance may be higher than the premium you would pay for such insurance. You shall promptly notify the insurer and us of any loss. We may make proof of loss if you do not promptly do so.

We may also, at our option and on your behalf, adjust and compromise any claims under the insurance, give releases or acquittances to the insurance company in connection with the settlement of any claim and collect and receive insurance proceeds. You appoint us as your attorney-in-fact to do all of the foregoing, which appointment you


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understand and agree is irrevocable, coupled with an interest with full power of substitution and shall not be affected by your subsequent disability or incompetence.

Insurance proceeds shall be applied to restore or repair the Property damaged, if restoration or repair is economically feasible and our security would not be lessened. Otherwise, insurance proceeds shall be applied to sums secured by this Mortgage, whether or not then due, with any excess paid to you. If you abandon the Property, or do not answer within 30 days after we give notice to you that the insurer has offered to settle a claim, then we may collect and use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. Any application of proceeds to principal shall not require us to extend or postpone the due date of monthly payments or change the amount of monthly payments. If we acquire the Property at a forced sale following your default, your right to any insurance proceeds resulting from damage to the Property prior to the acquisition shall pass to us to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

You shall not permit any condition to exist on the Property which would, in any way, invalidate the insurance coverage on the Property.

**5. Preservation, Maintenance and Protection of the Property; Your Loan Application; Leaseholds.** You shall not destroy, damage or substantially change the Property, allow the Property to deteriorate, or commit waste. You shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in our good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Mortgage or our security interest. You may cure such a default, as provided in Section 17, by causing the action or proceeding to be dismissed with a ruling that, in our good faith determination, precludes forfeiture of your interest in the Property or other material impairment of the lien created by this Mortgage or our security interest. You shall also be in default if you, during the loan application process, gave materially false or inaccurate information or statements to us (or failed to provide us with any material information) in connection with the loan evidenced by the Agreement, including, but not limited to, representations concerning your occupancy of the Property as a principal residence. If this Mortgage is on a leasehold, you shall comply with the lease. You shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease. You shall not, without the express written consent of us, alter or amend the ground lease. If you acquire fee title to the Property, the leasehold and fee title shall not merge unless we agree to the merger in writing.

**6. Protection of Our Rights in the Property; Mortgage Insurance.** If you fail to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect our rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then we may do, and pay for, anything necessary to protect the Property's value and our rights in the Property. Our actions may include paying any sums secured by a lien which has priority over this Mortgage or over any advance under the Agreement or this Mortgage, appearing in court, paying reasonable attorney's fees, paying any sums which you are required to pay under this Mortgage and entering on the Property to make repairs. We do not have to take any action we are permitted to take under this Section; and amounts we pay under this Section shall become additional debts you owe us and shall be secured by this Mortgage. These amounts shall bear interest from the disbursement date at the rate established under the Agreement and shall be payable, with interest, upon our request. If we required mortgage insurance as a condition of making the loan secured by this Mortgage, you shall pay the premiums for such insurance until such time as the requirement for the insurance terminates.

**7. Inspection.** We may enter and inspect the Property at any reasonable time and upon reasonable notice.

**8. Condemnation.** The proceeds of any award for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to us. If the Property is abandoned, or if, after notice by us to you that the condemnor offers to make an award or settle a claim for damages, you fail to respond to us within 30 days after the date the notice is given, we are authorized to collect and apply the proceeds, at our option, either to restoration or repair of the Property or to the sums secured by this Mortgage, whether or not then due. Unless we and you otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments payable under the Agreement and Section 1 or change the amount of such payments.

**9. No Release Upon Extension or Modification.** Our granting of any extension of time for payment or our agreement to modify the terms of repayment of the obligations under the Agreement or the requirements in this Mortgage shall not operate to release you from your obligations or liability under the Agreement or this Mortgage.

**10. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Mortgage shall bind and benefit your successors and permitted assigns. Your covenants and agreements shall be joint and several. Anyone who co-signs this Mortgage but does not execute the Agreement: (a) is co-signing this Mortgage only to mortgage, grant and convey such person's interest in the Property; (b) is not personally obligated to pay the Agreement, but is obligated to pay all other sums secured by this Mortgage; and (c) agrees that we and anyone else who signs this Mortgage may agree to extend, modify, forbear or make any accommodations regarding the terms of this Mortgage or the Agreement without such person's consent.

**11. Loan Charges.** If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from you which exceed permitted limits will be refunded to you. We may choose to make this refund by reducing the principal owed under the Agreement or by making


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a direct payment to you. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Agreement.

**12. Notices.** Unless otherwise required by law, any notice to you provided for in this Mortgage shall be delivered or mailed by first class mail to the Property Address or any other address you designate by notice to us, and any notice to us shall be delivered or mailed by first class mail to our address stated above or any other address we designate by notice to you.

**13. Governing Law; Severability.** The interpretation and enforcement of this Mortgage shall be governed by the law of the jurisdiction in which the Property is located, except as preempted by federal law. In the event that any provision or clause of this Mortgage or the Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Agreement which can be given effect without the conflicting provision. To this end the provisions of this Mortgage and the Agreement are declared to be severable.

**14. Transfer of the Property.** If all or any part of the Property or any interest in it is sold or transferred without our prior written consent, we may, at our option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by us if exercise is prohibited by federal law as of the date of this Mortgage.

**15. Sale of Agreement; Change of Loan Servicer.** The Agreement or a partial interest in the Agreement (together with this Mortgage) may be sold one or more times without prior notice to you. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Agreement and this Mortgage. There also may be one or more changes of the Loan Servicer unrelated to the sale of the Agreement. If there is a change of the Loan Servicer, you will be given written notice of the change as required by applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any information required by applicable law.

**16. Hazardous Substances.** You shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. You 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 Hazardous Substances in quantities that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. You shall promptly give us 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 you have actual knowledge. If you learn or are notified by any government or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, you shall promptly take all necessary remedial actions in accordance with Environmental Law. As used in this Mortgage, "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 Mortgage, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

**17. Acceleration; Remedies. You will be in default if (1) any payment required by the Agreement or this Mortgage is not made when it is due; (2) we discover that you have committed fraud or made a material misrepresentation in connection with the Agreement; or (3) your action, or your failure to act, adversely affects our security for the Agreement or any right we have in the Property. If a default occurs, we will give you notice specifying: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to you, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform you of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, we may, at our option, require immediate payment in full of all sums secured by this Mortgage without further demand and may invoke the power of sale and any other remedies permitted by applicable law. We shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 17, including, but not limited to, reasonable attorneys' fees as permitted by applicable law.**

**If we invoke the power of sale, we shall give a copy of a notice to you in the manner provided in Section 12. We shall publish the notice of sale once a week for three consecutive weeks in a newspaper in** Shelby **County, Alabama, and thereupon shall sell the Property to the highest bidder at public auction at the front door of the County Courthouse of this County. We shall deliver to the purchaser our deed conveying the Property. We or our designee may purchase the Property at any sale. You covenant and agree that the proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Mortgage; and (c) any excess to the person or persons legally entitled to it.**

**18. Discontinuance of Enforcement.** Notwithstanding our acceleration of the sums secured by this Mortgage under the provisions of Section 17, we may, in our sole discretion and upon such conditions as we in our sole discretion determine, discontinue any proceedings begun to enforce the terms of this Mortgage.

**19. Release.** Upon payment of all sums secured by this Mortgage, we shall release this Mortgage. You shall pay any recordation or filing costs and any fees paid to a third party for services rendered in reconveying or releasing this Mortgage, to the extent allowed by law.


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**20. Additional Charges.** You agree to pay reasonable charges as allowed by law in connection with the servicing of this loan including, without limitation, the costs of obtaining tax searches and subordinations, provided, however, that nothing contained in this section is intended to create and shall not be construed to create any duty or obligation by us to perform any such act, or to execute or consent to any such transaction or matter, except a release of the Mortgage upon full repayment of all sums secured thereby.

**21. Waiver.** You hereby waive all rights of homestead exemption in the Property and relinquish all rights of curtesy and dower in the Property.

**22. Riders to this Mortgage.** If one or more riders are executed by you and recorded together with this Mortgage, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were part of this Mortgage.

☐ Condominium Rider ☐ 1-4 Family Rider ☐ Planned Unit Development Rider
☒ Other(s) [specify] **EQUITY LINE RIDER**

BY SIGNING BELOW, You accept and agree to the terms and covenants contained in this Mortgage and in any rider(s) executed by you and recorded with it.

Witnesses:

_____

_____

Pamela D. Scoggins 1/25/05 (Seal)
**Pamela D. Scoggins**

Robert Wayne Scoggins 1/25/05 (Seal)
**Robert Wayne Scoggins**

**STATE OF ALABAMA )**
**County of Shelby )**

**On this 25 day of Jan, 2005, I, Jerald L. McAlister, a Notary Public in and for said county and in said state, hereby certify that Pamela D. Scoggins AND Robert Wayne Scoggins, whose name(s) is/are signed to the foregoing conveyance, and who is/are known to me, acknowledged before me that, being informed of the contents of the conveyance, he/she/they executed the same voluntarily and as his/her/their act on the day the same bears date.**

**Given under my hand and seal of office this 25 day of Jan, 2005.**

**Notary Public**

**My commission expires: 7-23-06**

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# EXHIBIT "A"

**LEGAL DESCRIPTION**

THE FOLLOWING DESCRIBED REAL PROPERTY SITUATED IN SHELBY COUNTY, ALABAMA, TO-WIT:

LOT 3, ACCORDING TO THE SURVEY OF WEATHERLY BERKSHIRE MANOR-SECTOR 19, RECORDED IN MAP BOOK 24, PAGE 43, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

BEING THE SAME PROPERTY CONVEYED TO WAYNE SCOGGINS AND PAMELA D. SCOGGINS, HUSBAND AND WIFE, BY DEED RECORDED JANUARY 14, 2005, AS INSTRUMENT NO. 1999-16624, IN THE DEED RECORDS OF SHELBY COUNTY, ALABAMA.

SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS, COVENANTS, OIL, GAS, OR MINERAL RIGHTS OF RECORD, IF ANY.

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**LOAN #: E0353786**
**MIN #: 100039650003537862**

# Equity Line Rider

(Open end credit with ☐ fixed rate ☒ variable rate interest)

This Equity Line Rider is dated **JANUARY 24, 2005** and is an amendment to the Mortgage or Deed of Trust (''Mortgage'') of the same date and given by the undersigned, **Robert Wayne Scoggins and Pamela D. Scoggins, husband and wife as joint tenants with right of survivorship**

(''Borrower'') to secure Borrower's Home Equity Line Agreement with
**E-LOAN, INC., A DELAWARE CORPORATION**

(''Lender'') of the same day covering the property described in the Mortgage and located at:
**109 Berkshire Manor Cir, Alabaster, AL 35007.**

In addition to the covenants and agreements made in the Mortgage, Borrower and Lender further covenant and agree as follows:

1. The word ''Note'', as used in the Mortgage and this Rider, refers to the Home Equity Line of Credit Agreement.

2. The Note evidences an open end revolving line of credit agreement between Borrower and Lender under which future advances will be made. The amount stated in the Mortgage as the principal sum of the indebtedness is the current credit limit for the line of credit. All future advances from Lender to the Borrower under such evidence of debt, whether obligatory or discretionary shall be secured by the Mortgage. All obligatory future advances and advances to cure breaches of covenants contained in the Mortgage are secured as if made on the date of this Mortgage. Nothing in this Mortgage shall constitute a commitment to make additional or future loans or advances which exceed **$38,800.00** (which replicates the current provision in the parties written agreement providing for obligatory future advances.) All sums advanced and expenses incurred by Lender for insuring, preserving, or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

3. The Note provides for:

   A variable rate of interest expressed as a daily periodic rate equal to 1/365 of an annual rate of **1.500%** plus the ''Index Rate''. The daily periodic rate may increase if the highest prime rate published in the Wall Street Journal ''Money Rates'' table (the ''Index Rate'') increases. The initial daily periodic rate is **0.0185%** The annual percentage rate will never be more than **18.000%.** The daily periodic rate will be adjusted on the first business day of every month, using the index rate in effect that day. Any increase in the daily periodic rate may increase the monthly payment due.

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LOAN #: E0353786

**NOTICE: THIS MORTGAGE SECURES CREDIT IN THE AMOUNT OF $38,800.00 LOANS AND ADVANCES UP TO THIS AMOUNT, TOGETHER WITH INTEREST, ARE SENIOR TO INDEBTEDNESS TO OTHER CREDITORS UNDER SUBSEQUENTLY RECORDED OR FILED MORTGAGES AND LIENS.**

Pamela D. Scoggins 1/25/05 (Seal)
Pamela D. Scoggins

Robert Wayne Scoggins 1/25/05 (Seal)
Robert Wayne Scoggins