



20080725000300200 1/3 \$113.00
Shelby Cnty Judge of Probate, AL
07/25/2008 10:57:22AM FILED/CERT

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This instrument was prepared by Pam Williamson, PINNACLE BANK, 2039 CANYON ROAD, BIRMINGHAM, Alabama 35216

MODIFICATION OF MORTGAGE

DATE AND PARTIES. The date of this Real Estate Modification (Modification) is July 24, 2008. The parties and their addresses are:

MORTGAGOR:

BILLY M NAUGHER JR
A MARRIED MAN
85 HAWTHORN STREET
BIRMINGHAM, Alabama 35242

LENDER:

PINNACLE BANK
VESTAVIA OFFICE
Organized and existing under the laws of Alabama
2039 Canyon Road
Vestavia, Alabama 35216

1. BACKGROUND. Mortgagor and Lender entered into a security instrument dated NOVEMBER 20, 2007 and recorded on MAY 30, 2008 (Security Instrument). The Security Instrument was recorded in the records of SHELBY County, Alabama at INSTRUMENT NUMBER 20080530000219690 and covered the following described Property:

LOT 19-20, BLOCK 19, ACCORDING TO THE SURVEY OF MT LAUREL-PHASE IIIB SECTOR I, AS RECORDED IN MAP BOOK 38, PAGE 26, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

THE PROPERTY DESCRIBED HEREIN DOES NOT CONSTITUTE THE HOMESTEAD OF THE MORTGAGOR NOR THAT OF HIS SPOUSE.

The property is located in SHELBY County at 111 BURNHAM STREET, BIRMINGHAM, Alabama 35242.

2. MODIFICATION. For value received, Mortgagor and Lender agree to modify the Security Instrument as provided for in this Modification.

The Security Instrument is modified as follows:

A. Maximum Obligation Limit. The maximum obligation provision of the Security Instrument is modified to read:

(1) Maximum Obligation Limit. The total principal amount secured by this Security Instrument at any one time will not exceed \$514,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

B. Secured Debt. The secured debt provision of the Security Instrument is modified to read:

(1) Secured Debts. The term "Secured Debts" includes and this Security Instrument will secure each of the following:

(a) Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A renewal note or other agreement, No. 28781, dated July 24, 2008, from Mortgagor to Lender, with a loan amount of \$514,000.00, with an initial interest rate of 6.0 percent per year (this is a variable interest rate and may change as the renewal note prescribes) and maturing on December 1, 2008. One or more of the debts secured by this Security Instrument contains a future advance provision.

(b) Sums Advanced. All sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

3. WARRANTY OF TITLE. Mortgagor warrants that Mortgagor continues to be lawfully seized of the estate conveyed by the Security Instrument and has the right to grant, bargain, convey, sell and mortgage with the power of sale the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

4. CONTINUATION OF TERMS. Except as specifically amended in this Modification, all of the terms of the Security Instrument shall remain in full force and effect.

5. ADDITIONAL TERMS. MODIFY ORIGINAL MORTGAGE AMOUNT FROM \$450,000.00 TO \$514,000.00 A DIFFERENCE OF \$64,000.00.

6. AGREEMENT TO ARBITRATE. Lender or Mortgagor may submit to binding arbitration any dispute, claim or other matter in question between or among Lender and Mortgagor that arises out of or relates to this Transaction (Dispute), except as otherwise indicated in this section or as Lender and Mortgagor agree to in writing. For purposes of this section, this Transaction includes this Modification and any other document relating to the Secured Debts, and proposed loans or extensions of credit that relate to this Modification. Lender or Mortgagor will not arbitrate any Dispute within any "core proceedings" under the United States bankruptcy laws.

Lender and Mortgagor must consent to arbitrate any Dispute concerning the Secured Debt secured by real estate at the time of the proposed arbitration. Lender may foreclose or exercise any powers of sale against real property securing the Secured Debt underlying any Dispute before, during or after any arbitration. Lender may also enforce the Secured Debt secured by this real property and underlying the Dispute before, during or after any arbitration.

Lender or Mortgagor may, whether or not any arbitration has begun, pursue any self-help or similar remedies, including taking property or exercising other rights under the law; seek attachment, garnishment, receivership or other provisional remedies from a court having jurisdiction to preserve the rights of or to prevent irreparable injury to Lender or Mortgagor; or foreclose against any property by any method or take legal action to recover any property. Foreclosing or exercising a power of sale, beginning and continuing a judicial action or pursuing self-help remedies will not constitute a waiver of the right to compel arbitration.

The arbitrator will determine whether a Dispute is arbitrable. A single arbitrator will resolve any Dispute, whether individual or joint in nature, or whether based on contract, tort, or any other matter at law or in equity. The arbitrator may consolidate any Dispute with any related disputes, claims or other matters in question not arising out of this Transaction. Any court having jurisdiction may enter a judgment or decree on the arbitrator's award. The judgment or decree will be enforced as any other judgment or decree.

Lender and Mortgagor acknowledge that the agreements, transactions or the relationships which result from the agreements or transactions between and among Lender and Mortgagor involve interstate commerce. The United States Arbitration Act will govern the interpretation and enforcement of this section.

The American Arbitration Association's Commercial Arbitration Rules, in effect on the date of this Modification, will govern the selection of the arbitrator and the arbitration process, unless otherwise agreed to in this Modification or another writing.

7. WAIVER OF TRIAL FOR ARBITRATION. Lender and Mortgagor understand that the parties have the right or opportunity to litigate any Dispute through a trial by judge or jury, but that the parties prefer to resolve Disputes through arbitration instead of litigation. If any Dispute is arbitrated, Lender and Mortgagor voluntarily and knowingly waive the right to have a trial by jury or judge during the arbitration.

SIGNATURES. By signing under seal, Mortgagor agrees to the terms and covenants contained in this Modification. Mortgagor also acknowledges receipt of a copy of this Modification.

MORTGAGOR:

Billy M. Naugher Jr (Seal)
BILLY M NAUGHER JR
Individually

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LENDER:

Pinnacle Bank
Vestavia Office
By Carl Schoettlin (Seal)
Carl Schoettlin, Vice President, Construction Loan Department

ACKNOWLEDGMENT.

(Individual)

State OF Alabama, County OF Jefferson ss.

I, Pamela Williamson, a notary public, hereby certify that BILLY M NAUGHER JR, A MARRIED MAN, whose name(s) is/are signed to the foregoing instrument, and who is/are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she/they executed the same voluntarily on the day the same bears date. Given under my hand this 24 day of July, 2008.

My commission expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Feb 3, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Pamela Williamson
(Notary Public)

(Lender Acknowledgment)

State OF Alabama, County OF Jefferson ss.

I, Pamela Williamson, a notary public, in and for said County in said State, hereby certify that Carl Schoettlin, whose name(s) as Vice President, Construction Loan Department of Pinnacle Bank Vestavia Office, a corporation, is/are signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she/they, as such officer(s) and with full authority, executed the same voluntary for and as the act of said corporation. Given under my hand this the 24 day of July, 2008.

My commission expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Feb 3, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Pamela Williamson
(Notary Public)



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