

20090427000152970 1/8 \$33.00
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20100112000010830 1/9 \$37.00
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01/12/2010 11:04:06 AM FILED/CERT

THIS INSTRUMENT WAS PREPARED BY
Katrina Smith

RECORD AND RETURN TO:
Merrill Lynch Credit Corporation
2001 Bishops Gate Blvd.
Mt. Laurel, New Jersey 08054
Mail Stop: SV 60
Loan No.: 7101730161

Record 2nd

ORIGINAL

**MODIFICATION AGREEMENT TO CONSTRUCTION/PERMANENT MORTGAGE,
SECURITY AGREEMENT AND FIXTURE FILING**

RE-RECORD MODIFICATION AGREEMENT TO ADD THE CORRECT LEGAL

This **Modification Agreement to Construction/Permanent Mortgage, Security Agreement and Fixture Filing** (the "Agreement") is entered into this 30th day of March, 2009, by and between Stephen D. Guillory and Angela T. Guillory, husband and wife (the "Borrower") and Merrill Lynch Credit Corporation, a Delaware corporation, with its principal place of business located at 5201 Gate Parkway, Jacksonville, Florida 32256 (herein referred to as "Lender").

WHEREAS, Lender is the owner and holder of that certain Construction/Permanent Mortgage, Security Agreement and Fixture Filing and applicable riders dated March 30, 2007, made by Borrower, as mortgagor, to Lender, recorded on March 30, 2007, Document No. 20070330000145810, in the Shelby County Judge of Probate Office, State of Alabama (the "Security Instrument"), securing a debt evidenced by a promissory note from Borrower dated March 30, 2007, in the original principal amount of \$480,000.00 (the "Note"), which Security Instrument encumbers the real property more particularly described therein;

WHEREAS, the Note and Security Instrument were further amended by an Amendment to Fixed/Adjustable Rate Note and Construction/Permanent Mortgage, Security Agreement and Fixture Filing dated September 8, 2008, that was recorded on September 17, 2008, as Document No. 20080917000370010, of said county records, increasing the principal amount of the indebtedness secured therein to \$502,400.00, and

WHEREAS, the Borrower, being the owner in fee simple of the Property, has requested that Lender modify the Security Instrument and applicable riders and the parties have mutually agreed to modify the terms thereof in the manner hereafter stated.



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NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. As of the date of execution hereof, the terms and conditions of the **FIXED/ADJUSTABLE RATE RIDER** attached to the Security Instrument are deleted in their entirety and replaced with the terms and conditions of the **ADJUSTABLE RATE RIDER** attached hereto as Exhibit A.
2. The first and third sentence in paragraph (E) of the Security Instrument are hereby deleted and the following is hereby substituted in its place:

This debt is evidenced by Borrower's note dated the same date as this Security Instrument as modified by the Modification Agreement to Fixed/Adjustable Rate Note dated March 30, 2009, executed by the Borrower and the Lender (collectively, the "Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on April 1, 2034.

3. The unpaid principal balance due under the Note as of the date of this Agreement is \$431,200.00.
4. To the extent permitted by law, Borrower warrants that Borrower has no existing right of offset, counterclaim, or other defenses against enforcement of the Note and Security Instrument and that, if any such right or defenses do exist, they are hereby waived and released.
5. This Agreement shall supersede for all purposes any and all conflicting terms and conditions provided for in the Note and Security Instrument, but shall be construed as supplemental as to any nonconflicting term or conditions stated therein. The Note and Security Instrument shall continue to evidence and secure the Borrower's indebtedness thereunder as modified herein. The parties intend and agree that this Agreement is not a novation of Borrower's loan obligation. Except to the extent provided herein, the terms of the Note and the Security Instrument remain in full force and effect.
6. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the parties hereto.



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7. This Agreement contains the entire agreement of the parties hereto with regard to modification of the Note and Security Instrument and supersedes any prior written or oral agreements between them concerning the subject matter contained herein, and no party hereto has relied upon any representations except such as are specifically set forth herein. This Agreement may not be modified, changed or amended except by written instrument signed by Lender and Borrower. This Agreement shall be governed by the laws of the state in which the property encumbered by the Security Instrument is located.
8. Simultaneously with the execution hereof, the Borrower has executed and delivered to the Lender a Modification Agreement to Fixed/Adjustable Rate Note (the "Note Modification Agreement"), pursuant to which the Note has been modified. Any reference contained in the Security Instrument or the Note to the Security Instrument or the Note shall hereinafter be deemed to be a reference to the Security Instrument, as amended by this Agreement, and the Note, as amended by the Note Modification Agreement.

Executed as of the date first above written.

Witnesses:

Print Name: _____

Print Name: _____

Print Name: _____

MERRILL LYNCH CREDIT CORPORATION
By RHH Mortgage Corporation, Authorized Agent

By: Jorjette C. Witt
Jorjette C. Witt, Director

Stephen D. Guillory (SEAL)
Stephen D. Guillory

Angela T. Guillory (SEAL)
Angela T. Guillory

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STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 10th day of April, 2009,
by Jorjette C. Witt, Director of PHH Mortgage Corporation, the duly authorized agent of Merrill Lynch
Credit Corporation. She is personally known to me.



Katrina R. Smith
Name: Katrina R. Smith
Notary Public, State of Florida
Commission no.:
My commission expires:

STATE OF ALABAMA
COUNTY OF Shelby


I, the undersigned, A Notary Public in and for said County, in the State aforesaid, DO HEREBY
CERTIFY that **Stephen D. Guillory & Angela T. Guillory**, personally known to me to be the same
person whose name is subscribed to the foregoing instrument appeared before me this day in person, and
acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for
the uses and purposes set forth.

Given under my hand and official seal this 9th day of April 2009.

Walter E. Thomas
Notary Public Walter E. Thomas
Commissions Expires: 5/23/2012



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"Exhibit A to the Modification Agreement to Construction/Permanent Mortgage,
Security Agreement and Fixture Filing"

ADJUSTABLE RATE RIDER **(LIBOR Index - Rate Caps)**

THIS ADJUSTABLE RATE RIDER is made this 30 day of 3/2009 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to Merrill Lynch Credit Corporation ("Lender") of the same date and covering the property described in the Security Instrument and located at:

360 OHARA DRIVE, COLUMBIANA, AL 35051

[Property Address]

**THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE
INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE
MAXIMUM RATE BORROWER MUST PAY.**

ADDITIONAL COVENANTS. As used below, the "Commencement Date" is 04/01/2009 . In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:


A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for changes in the interest rate and the monthly payments, as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of June , 2009 and on that day every one (1) month thereafter. Each date on which my interest rate could change is called a "Change Date."


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(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for 1 month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the date twenty-five (25) days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding One and Five / Tenths percentage point(s) (1.500 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

(i) Interest-Only Period. The "interest-only period" is the period from the Commencement Date through 03/31/2019 . For the interest-only period, after calculating my new interest rate as provided above, the Note Holder will then determine the amount of the monthly payment that would be sufficient to pay the interest which accrues on the unpaid Principal of my loan. The result of this calculation will be the new amount of my monthly payment.

(ii) Amortization Period. The "amortization period" is the period after the interest-only period. For the amortization period, after calculating my new interest rate as provided above, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

My permanent interest rate, commencing on the first Change Date, will never be greater than my initial permanent interest rate plus five percent (5%), or twelve percent (12%), whichever is greater. My permanent interest rate on the Commencement Date will not be greater than 18%.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.




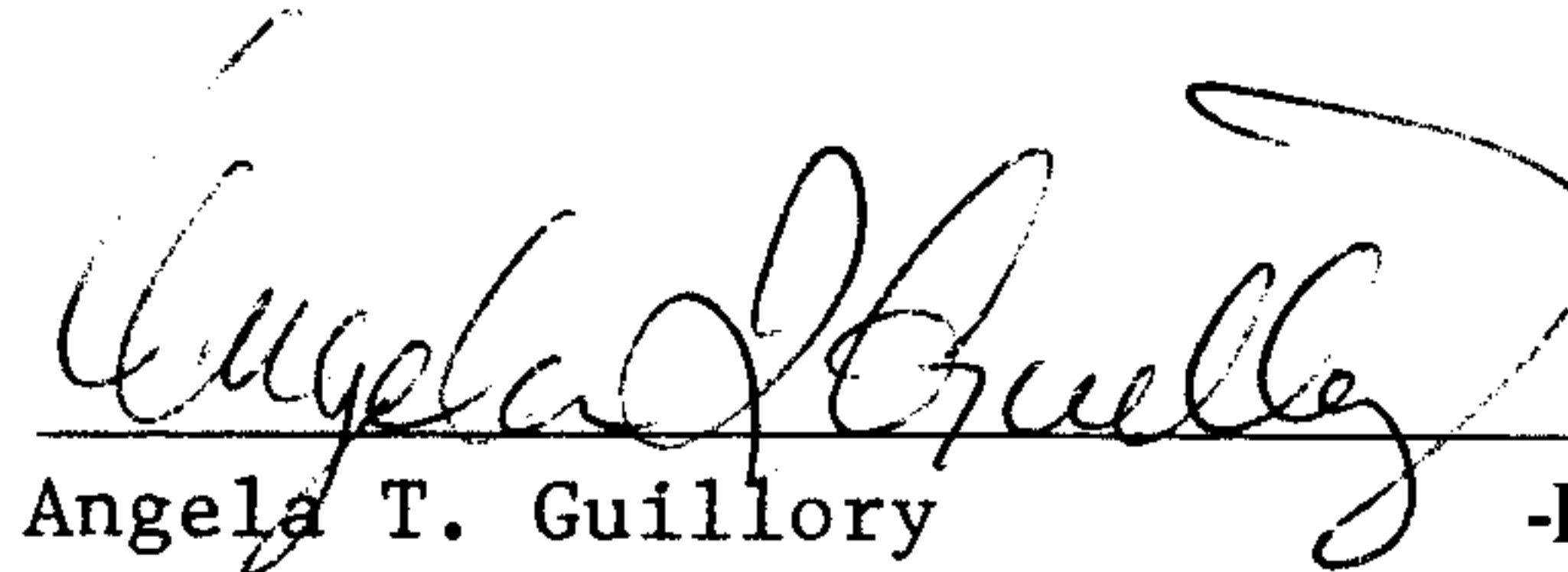
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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.

 (Seal)
Stephen D Guillory -Borrower

 (Seal)
Angela T. Guillory -Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower


____ (Seal)
-Borrower

____ (Seal)
-Borrower




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Incorrect Legal
EXHIBIT B


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Lot 4, according to the Survey of O'Hara Subdivision, as recorded in Map Book 35 page 77 in the Probate office of Shelby County, Alabama.
Together with the right to use the easement known as O'Hara Drive, running from Tara Drive through O'Hara Subdivision, as depicted on the plat of said O'Hara Subdivision.


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Also known as:
360 Ohara Drive
Columbiana, Al 35051



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EXHIBIT A

CORRECT LEGAL DESCRIPTION

Lot 4, according to the Resurvey of Lots 4 and 5 O'Hara Subdivision, as recorded in Map Book 37 Page 140 in the Probate Office of Shelby County, Alabama.

Together with the right to use the easement known as O'Hara Drive, running from Tara Drive through O'Hara Subdivision as depicted on the plat of said O'Hara Subdivision