

20120904000333800 1/10 \$127.50
Shelby Cnty Judge of Probate, AL
09/04/2012 02:52:21 PM FILED/CERT

This document was prepared by Shannon Conrad

After Recording Return To:
6750 Miller Road
Homeowners Assistance Dept.
LOC BR-YB58-01-3
Brecksville, OH 44141
Toll-Free: (866) 622-2657

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HOME EQUITY LINE OF CREDIT MODIFICATION AGREEMENT

This Home Equity Line of Credit Modification Agreement (this "Modification Agreement") is made as of **June 22, 2012**, between **DIANE GILKESON** (individually and collectively, the "Borrower") and PNC Bank, National Association*, for itself, its successors and/or assigns, (the "Lender").

If Borrower's representations, acknowledgments, agreements and preconditions to modification in Section 1 continue to be true in all material respects, then this Modification Agreement will, as provided in such Section 1, amend and supplement (1) the home equity line of credit agreement dated **March 28, 2002**, as it may previously have been amended, (the "Agreement" and (2) the Mortgage, Deed of Trust or Security Deed, (the "Security Instrument"), bearing the same date as and securing, the Agreement recorded in Book/Page or Instrument Number **2003022700019850**, of the **SHELBY** County Records of **AL** which covers the real and personal property described in the Security Instrument and defined therein as the "Property", commonly known as **1022 ASHMORE LN BIRMINGHAM AL 35242**, the real property described being set forth as follows:

SEE ATTACHED EXHIBIT "A" *original mortgage amount \$63,300.00*

The Agreement and Security Instrument together, as they may previously have been amended, are referred to as the "Loan Documents." The Borrower and Lender are sometimes collectively referred to together as the "Parties" and each as a "Party." Capitalized terms used in this Modification Agreement that are not defined herein have the meaning given to them in the Loan Documents.

*If another lender is identified in the Loan Documents, PNC Bank, National Association is the successor by merger to such lender.

This Modification Agreement will not take effect to modify the Loan Documents unless the preconditions set forth in Section 1 have been satisfied.

Please Note: Items preceded by "☐" are not applicable unless marked "☒" or the equivalent.

In consideration of the mutual promises and agreements exchanged, and intending to be legally bound, the Parties agree as follows:

1. **Borrower's Representations, Acknowledgments and Agreements and the Preconditions to Modification.**

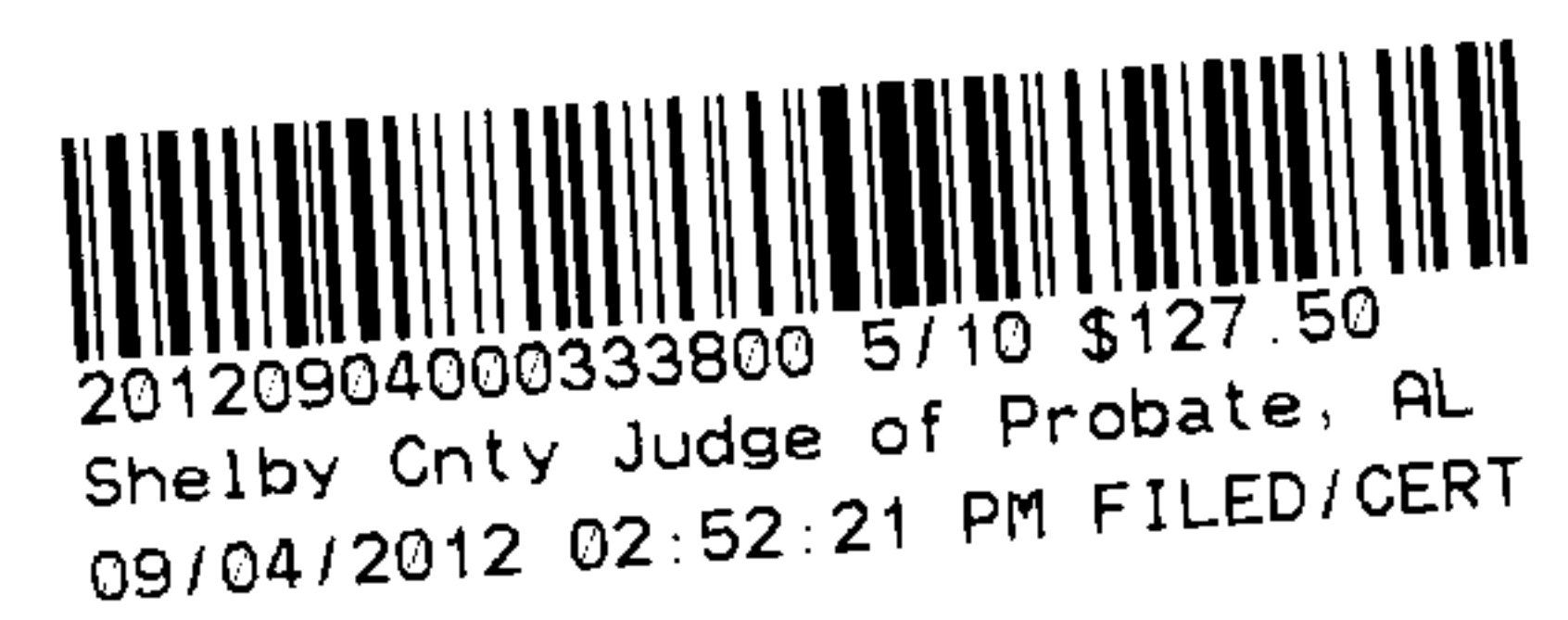
Borrower represents, acknowledges and agrees that:

- a. Under penalty of perjury, all documents and information provided by Borrower to Lender are true and correct.
- b. Borrower will sign and return this Modification Agreement as required by the Lender on or before **July 02, 2012**.
- c. If, prior to the Modification Effective Date (as defined in Section 2), (i) the Lender determines that Borrower's representations in Section 1(a) are no longer true and correct, or (ii) Borrower has not signed and returned this Modification Agreement as required in Section 1(b), the Loan Documents will not take effect, this Modification Agreement will terminate and the Lender will have all of its rights and remedies as provided by the Loan Documents.
- d. The Loan Documents will not be modified unless and until (i) the Lender has received any title endorsement(s), title insurance product(s), subordination agreement(s) and/or mortgage insurer approval(s) that the Lender deems necessary to ensure that the Security Instrument, as modified, retains the same lien position that it was in prior to the Modification Effective Date and is fully enforceable and that any mortgage insurance policy is fully enforceable and (ii) the Modification Effective Date has passed. The Lender is not required to make any modification of the Loan Documents if the Borrower fails to meet any one of the requirements under this Modification Agreement.
- e. As of the Modification Effective Date set forth in Section 2, Borrower's ability to obtain loans or Advances under the Agreement is permanently terminated. If Borrower's ability to obtain new loans or Advances was terminated previously, Borrower acknowledges that no additional loans or Advances may be obtained.
- f. If the Lender has paid costs and expenses to third parties for flood insurance premiums on the Property and/or court costs and attorneys' fees to enforce Lender's rights under the Loan Documents, the total amount of these costs and expenses is included in the New Principal Balance set forth in Section 2(b).
- g. If Borrower purchased credit insurance or the Line of Credit Protection Plan under the Agreement, such credit insurance or Line of Credit Protection Plan will be cancelled as of the Modification Effective Date set forth in Section 2.
- h. If the Agreement includes late charges or Other Charges, on the Modification Effective Date set forth in Section 2, Lender will waive all unpaid late charges and Other Charges that remain unpaid under the Agreement. If the Loan Documents are not modified, Lender will not waive the unpaid late charges and Other Charges. Lender reserves the right to charge late charges, Return Check Fees or returned payment fees after the Modification Effective Date, if applicable, under the terms provided in the Agreement.

- i. Borrower has requested that Lender cancel all Fixed Rate Lock Advances and Fixed Rate Parts that Borrower may have obtained and consolidate their outstanding balances into the New Principal Balance as defined in Section 2(b). **The interest rates applicable under this Modification Agreement as set forth in Section 2 may be higher than the interest rate that would have applied to the Fixed Rate Lock Advances and Fixed Rate Parts under the Agreement.**
- ☐ j. The Lender has forgiven a portion of the unpaid loans or Advances owing under the Agreement, in the amount of . The forgiven amount will be reported to the Internal Revenue Service and may have tax consequences. Borrower should seek guidance from a tax professional.
2. **The Modification.** If Borrower's representations in Section 1 continue to be true in all material respects and the preconditions in Section 1 have been met, the Loan Documents will automatically become modified on **July 07, 2012** (the "Modification Effective Date"). The first modified monthly payment will be due on **July 29, 2012**, and continuing on the payment due dates determined under the Agreement until the Maturity Date. Borrower understands and agrees that:
- a. The date on which all amounts owing under this Modification Agreement are due is called the "Maturity Date". The Maturity Date is **February 28, 2042**, which may have been extended beyond the maturity date in the Loan Documents.
- b. Borrower's new principal balance under this Modification Agreement is **\$58,967.26** (the "New Principal Balance"). The New Principal Balance includes any amounts that will be past due as of the Modification Effective Date, and consists of: (i) the sum of (A) the unpaid principal balance of the loans or Advances made to Borrower under the Agreement, including any Fixed Rate Lock Advances and Fixed Rate Parts, plus (B) any unpaid finance charges, plus (C) any costs and expenses paid to third parties as described in Section 1(f). **Borrower understands and agrees that by agreeing to include any costs and expenses paid to third parties in the New Principal Balance, such amount will accrue interest based on the interest rates in effect under this Modification Agreement. \$167.26 of the New Principal Balance, consisting of the accrued unpaid interest, shall be deferred (the "Deferred Interest") and shall be payable as provided in the last sentence in this section.** Borrower will not pay interest on the Deferred Interest prior to the Maturity Date (unless, as a result of Borrower default, the entire New Principal Balance is due) or make monthly payments on the Deferred Interest. Borrower must pay the Deferred Interest by the earliest of: (i) the date Borrower sells or transfers an interest in the Property; (ii) the date the Borrower pays or is required to pay the entire Interest Bearing Principal Balance (as defined below) or refinances the Property or (iii) the Maturity Date.
- c. The New Principal Balance less the Deferred Interest shall be referred to as the "Interest Bearing Principal Balance", and this amount is **\$58,800.00**.
- d. Interest at the rate of 1% will begin to accrue on the Interest Bearing Principal Balance as of **July 07, 2012** for the first **5** years. The monthly payment of principal and interest for the first **5** years will be **\$162.71** and the first new monthly payment will be due on the date set forth in the second sentence of this Section 2.
- e. During year 6 and continuing thereafter until the Maturity Date, interest at the rate of **5.25%** will accrue on the Interest Bearing Principal Balance as of **June 30, 2017**. The monthly payment of principal and interest for year 6 and thereafter until the Maturity Date will be approximately **\$254.67** and the first new monthly payment will be due on **July 29, 2017**.

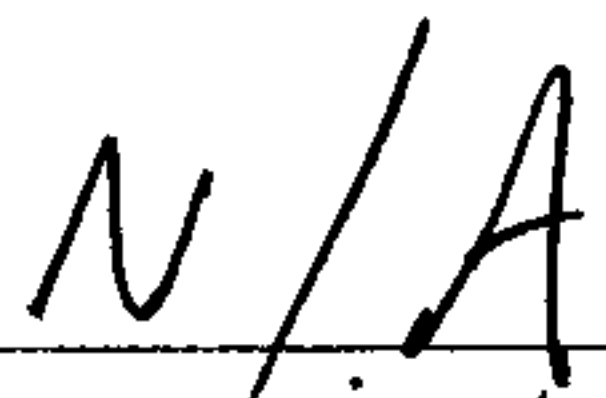
- f. On the Maturity Date, the final payment under this Modification Agreement will be an amount equal to (i) the unpaid balance of the New Principal Balance, plus (ii) all accrued and unpaid interest on the New Principal Balance, plus (iii) any other amounts owed under the Loan Documents.
- g. **The interest rates applicable to the Interest Bearing Principal Balance as set forth in this Section 2 may be higher than the interest rate that would have applied under the Agreement.**
- h. As used in this Modification Agreement, the term "Billing Cycle" means the days between the closing date for the last monthly statement sent to Borrower and the closing date for the Borrower's current statement. Interest charged under this Modification Agreement will be computed on an "average daily balance" basis. The "average daily balance" is calculated by adding all the "daily balances" during the Billing Cycle and then dividing the total by the total number of days in the Billing Cycle. The "daily balance" is calculated by taking the beginning balance of the Interest Bearing Principal Balance each day and subtracting any payments, unpaid interest, late charges, Return Check Fees and returned payment fees. Interest owed under this Modification Agreement will be computed:
- ☐ i. by multiplying the "average daily balance" for the Billing Cycle by $1/12^{\text{th}}$ of the applicable interest rate set forth in Section 2(d) or Section 2(e) above.
- ☒ ii. by multiplying the "average daily balance" for the Billing Cycle by the number of days in the Billing Cycle and multiplying the product by $1/365^{\text{th}}$ (or $1/366^{\text{th}}$ in a leap year) of the applicable interest rate set forth in Section 2(d) or Section 2(e) above.
- i. Monthly payments will be applied first to all unpaid interest on the Interest Bearing Principal Balance, then to any unpaid late charges, Return Check Fees and returned payment fees (if applicable under the Agreement) and then to the Interest Bearing Principal Balance. If Borrower makes a partial prepayment of principal, the Lender may apply that partial prepayment to any unpaid late charges, Return Check Fees and returned payment fees (if applicable under the Agreement) and then to the Interest Bearing Principal Balance. To the extent that the principal prepayment is equal to or exceeds the Interest Bearing Principal Balance, the prepayment will be applied to Deferred Interest. Prepayments will not change the due dates or amounts of monthly payments.
- j. If Borrower elected the Automatic Payment Plan under the Agreement or authorized automatic payment of the Agreement from a deposit account ("Automatic Payment Program"), the Borrower may be required to sign a new authorization to continue the Automatic Payment Program once the monthly payment changes under Section 2(d) and Section 2(e). If the Automatic Payment Program is cancelled, that cancellation will not affect the interest rate required to be paid under this Modification Agreement.
- k. Borrower will be in default under this Modification Agreement if: (i) Borrower fails to make any payment under Section 2 of this Modification Agreement when due; (ii) Borrower fails to keep any of Borrower's agreements under Sections 1, 2 or 3 of this Modification Agreement; (iii) Borrower has provided false or misleading information to Lender; or (iv) Borrower's action or inaction adversely affects the Property or Lender's rights in the Property.
- l. In the event of a default under the Loan Documents, as modified by this Modification Agreement, interest will accrue on the unpaid amount of the New Principal Balance, including after the entire balance is declared to be due in full, at the rate set forth in Section 2(d) or Section 2(e) as applicable when the default occurred.

- m. If Borrower is in default, in addition to any other rights and remedies Lender has under law and subject to any right Borrower may have to cure the default under applicable law, Lender may do any of the following to the extent permitted by law: (a) require immediate payment of the entire unpaid New Principal Balance in full without demand or notice, unless otherwise required by applicable law and (b) recover all expenses related to retaking, holding, preparing for sale and selling the Property and reasonable collection costs, attorneys' fees and legal expenses as permitted by 11 U.S.C. 506 and any other applicable law.
 - n. Borrower's ability to obtain loans or Advances under the Agreement is permanently terminated.
 - o. If Borrower purchased credit insurance or the Line of Credit Protection Plan under the Agreement, such credit insurance or Line of Credit Protection Plan is cancelled.
 - p. The terms in Section 2 will supersede any provisions to the contrary in the Loan Documents, including, but not limited to, the provisions for a variable interest rate or determination of the amount of any finance charge.
3. **Additional Agreements.** Borrower understands and agrees to the following:
- a. All persons who signed the Loan Documents, or their authorized representative(s) have signed this Modification Agreement, unless: (i) a borrower or co-borrower is deceased; (ii) the borrower and co-borrower are divorced and the Property has been transferred to one spouse in the divorce decree, the spouse who no longer has an interest in the Property need not sign this Modification Agreement (although the non-signing spouse may continue to be held liable for the obligation under the Loan Documents); or (iii) the Lender has waived this requirement in writing. Any Borrower who signs this Modification Agreement but did not sign the Agreement is not personally obligated to pay the sums secured by the Security Instrument as modified by this Modification Agreement.
 - b. This Modification Agreement supersedes the terms of any modification, forbearance or workout plan that the Borrower has previously entered into with Lender.
 - c. Except as expressly modified by this Modification Agreement, Borrower will comply with and is bound by all covenants, agreements, and requirements of the Loan Documents.
 - d. The Loan Documents as modified by this Modification Agreement are duly valid, binding agreements, enforceable in accordance with their terms and are hereby reaffirmed and remain in full force and effect. Lender's rights include, but are not limited to, the right to charge late charges, Return Check Fees or returned payment fees if and to the extent provided under the Agreement. If Borrower's monthly statement contains a "billing rights statement," Borrower agrees and understands that such statement is no longer applicable, and the terms and conditions set out in such billing rights statement do not apply to this Modification Agreement.
 - e. Nothing in this Modification Agreement will be understood or construed as a satisfaction or release, in whole or in part, of the obligations in the Loan Documents, or to satisfy or release the Security Instrument, in whole or in part.



- f. As of the Modification Effective Date, notwithstanding any other provision of the Loan Documents, if all or any part of the Property or any interest in it is sold or transferred without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, Lender shall not exercise this option if applicable law, rules or regulations prohibit the exercise of such option as of the date of such sale or transfer. If Lender exercises this option, Lender shall give Borrower notice that all sums secured by the Security Instrument are due in full. The notice will provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay such amount. If Borrower fails to pay the amount owed prior to the expiration of this period, Lender may exercise any remedies permitted by the Security Instrument.
- g. As of the Modification Effective Date, Borrower understands that Lender will only allow the transfer and assumption of the Loan Documents, including this Modification Agreement, to a transferee of the Property as permitted under the Garn St. Germain Act, 12 U.S.C. Section 1701j-3. A buyer or transferee of the Property will not be permitted, under any other circumstance, to assume the Loan Documents including this Modification Agreement. Except as noted in this Section 3(g), this Modification Agreement may not be assigned to, or assumed by, a buyer or transferee of the Property.
- h. Borrower will cooperate fully with Lender in obtaining any title endorsement(s), title insurance product(s) and/or subordination agreement(s) that are necessary or required by the Lender's procedures to ensure that the Security Instrument, as modified, retains the same lien position that is in effect prior to the Modification Effective Date and/or is fully enforceable upon modification.
- i. Borrower will execute and deliver such other documents as may be reasonably necessary to either: (i) put into effect the terms and conditions of this Modification Agreement or (ii) correct the terms and conditions of this Modification Agreement if an error is detected after the Modification Effective Date. Borrower understands that a corrected Modification Agreement or letter agreement containing the correction will be provided to Borrower for Borrower's signature. At Lender's option, this Modification Agreement will be void and of no legal effect upon notice of such error. If Borrower elects not to sign any such corrected Modification Agreement or letter agreement, the terms of the original Loan Documents shall continue in full force and effect and such terms will not be modified by this Modification Agreement.
- j. Borrower is solely responsible for the payment of any federal, state and/or local taxes with respect to any principal forgiveness, if provided in Section 1(j). Borrower understands, agrees and acknowledges that Lender has not made any representations to the Borrower concerning the taxability and/or non-taxable status of the any such principal forgiveness.
- k. If any document related to the Loan Documents and/or this Modification Agreement is lost, misplaced, misstated, inaccurately reflects the true terms and conditions of the loan as modified, or is otherwise missing, Borrower will comply with the Lender's request to acknowledge, initial and deliver to the Lender any documentation the Lender deems necessary (all such documents are the "Documents"). Borrower agrees to deliver the Documents within ten (10) days after Borrower receives the Lender's written request for such replacement.

1. **If Borrower consents to receiving calls as described in this section, please sign below:**
Borrower consents to receiving calls, including calls using an automatic telephone dialing system and/or an artificial or prerecorded voice, and text messages from Lender or any of its affiliates, agents or third party representatives at any and all of Borrower's telephone numbers, including, but not limited to, Borrower's wireless (mobile/cellular) number, or any cell phone number Borrower may provide to Lender, for any purpose related to the Borrower's Account, including servicing purposes and debt collection purposes, with respect to this Modification Agreement and the Loan Documents, the Account related to the Loan Documents and any other account at Lender or any of its affiliates. These calls and messages may incur access fees from Borrower's cellular provider. Lender may monitor telephone calls with Borrower to assure quality service.


Borrower signature

Borrower signature

[SIGNATURE PAGES TO FOLLOW]

In Witness Whereof, the Borrower(s) have executed this Modification Agreement.

Diane Gilkeson
DIANE GILKESON

_____[Space Below This Line For Acknowledgments]_____

STATE OF Alabama) SS

COUNTY OF Shelby)

On (Month/Day/Year) June/26/2012, personally appeared **DIANE GILKESON**, personally known to me (or proved to me on the basis of satisfactory evidence) to the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument to the person(s) or the entity upon behalf of which the person(s) acted executed the instruments.

I certify under PENALTY OF PERJURY under the law of the State of Alabama that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Signature *Felecia Olson*
Notary Printed Name: Felecia Olson
My Commission Expires: 10/12/2014

In Witness Whereof, the Lender has executed this Modification Agreement.

PNC BANK:

By: [Signature]

Destinee Toliver

Its: Authorized Representative

_____[Space Below This Line For Acknowledgments]_____

STATE OF OHIO)

ss:

COUNTY OF CUYAHOGA)

On this, the 29 day of June, 2012 before me, a Notary Public, the undersigned officer, personally appeared Destinee Toliver, who acknowledged himself/herself to be an authorized signer of PNC Bank, N.A. and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of said bank as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public: [Signature]

Printed Name: Sandra Ezell Garcias

My Commission Expires: 4-6-14

County of Residence: Summit



Sandra Ezell Garcias
Notary Public, State of Ohio
My Commission Expires
April 6, 2014



EXHIBIT "A" LEGAL DESCRIPTION

Page: 1 of 1

Account #: 20609245
Order Date : 02/21/2012
Reference :
Name : DIANE L. GILKESON
Deed Ref : 2002-16041

Index #:
Registered Land:
Parcel #: 09-2-09-0-005-043.000

SITUATED IN THE COUNTY OF SHELBY, STATE OF ALABAMA, TO-WIT:

LOT 1246, ACCORDING TO THE MAP OF HIGHLAND LAKES, 12TH SECTOR, PHASE I, AN
EDDLEMAN COMMUNITY, AS RECORDED IN MAP BOOK 26, PAGE 137 IN THE PROBATE OFFICE
OF SHELBY COUNTY, MINERAL AND MINING RIGHTS EXCEPTED.

SUBJECT TO ALL EASEMENTS, COVENANTS, CONDITIONS, RESERVATIONS, LEASES AND
RESTRICTIONS OF RECORD, ALL LEGAL HIGHWAYS, ALL RIGHTS OF WAY, ALL ZONING,
BUILDING AND OTHER LAWS, ORDINANCES AND REGULATIONS, ALL RIGHTS OF TENANTS IN
POSSESSION, AND ALL REAL ESTATE TAXES AND ASSESSMENTS NOT YET DUE AND PAYABLE.

BEING THE SAME PROPERTY CONVEYED BY DEED RECORDED IN DOCUMENT NO. 2002-16041,
OF THE SHELBY COUNTY, ALABAMA RECORDS.

