

Return To:  
Compass Bank  
P. O. Box 10687  
Birmingham, AL 35202-0687

20121025000409510 1/6 \$401.55  
Shelby Cnty Judge of Probate, AL  
10/25/2012 10:01:03 AM FILED/CERT

Prepared By:  
Jay G. Beitel  
Polunsky & Beitel, LLP  
8000 McDermott Freeway, Suite 1600  
San Antonio, Texas 78230

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### MODIFICATION AGREEMENT

THE STATE OF ALABAMA            }  
  }  
COUNTY OF SHELBY                }           KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Donald Drake, a single man (herein "Borrower") executed and delivered unto Compass Bank (herein "Lender") that one certain Note (herein the "Note") in the original principal sum of \$256,400.00 dated June 17, 2010, payable to the order of Compass Bank (herein "Lender") which Note was secured by a Mortgage (herein the "Mortgage"), recorded under Instrument No. 20100622000197730, of the Probate Records of Shelby County, Alabama, encumbering the real property and improvements thereon (herein the "Property") described in said Mortgage, and being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes; and,

WHEREAS, the principal balance of the Note is increased to \$249,652.10 which includes all past due Bank fees; and,

WHEREAS, Borrower has requested Lender to modify the terms of the Note, and Lender has agreed, in exchange for Borrower's agreements herein set forth, to a modification of the Note upon the terms hereinafter set forth;

NOW, THEREFORE, for and in consideration of the mutual agreements herein set forth, and the other considerations herein expressed, Lender and Borrower hereby agree to the following modifications of the Note, and Borrower hereby renews the Note, and all outstanding indebtedness secured by the Note and the Mortgage, and in consideration for the modifications of the Note by Lender; Borrower and Lender hereby expressly agree as follows:

1. Borrower and Lender acknowledge that the Modifications herein adopted are effective as of October 1, 2012.

2. Borrower and Lender acknowledge that the outstanding principal balance of the Note as of the date hereof is increased to \$249,652.10 which includes all past due unpaid interest.
3. The interest rate in the Note shall remain at a fixed rate of 3.875%.
4. The Maturity Date in the Note is changed from July 1, 2040 to October 2, 2013.
5. The monthly principal and interest payments in the Note are changed from \$1,318.25 each month to principal and interest payments each month in the amount of \$893.91, beginning November 1, 2012 and continuing regularly thereafter until October 1, 2013 ("Maturity Date"), at which time all unpaid principal and accrued unpaid interest is due and payable.
6. In addition to the monthly payments of principal and interest, Borrower shall continue to pay monthly along with each monthly principal and interest payment the funds for the escrow items, as provided in the Mortgage securing the payment of this Note.
7. The amount payable for the escrow items to be paid along with the principal and interest payment in the amount of \$889.16 beginning November 1, 2012, shall be \$275.70 monthly for a total of principal and interest and escrow items being \$1,164.86. The escrow amount is subject to change.
8. Any arrearages not paid at closing will be deferred to Maturity, which shall bear no interest.
9. All other terms of the Note not specifically modified by nor in conflict with the terms of this Modification Agreement shall remain in full force and effect.

THIS LOAN IS PAYABLE IN FULL ON OCTOBER 1, 2013. YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE NOTEHOLDER IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS YOU MAY OWN, OR, YOU WILL HAVE TO FIND A LENDER WILLING TO LEND YOU THE MONEY AT PREVAILING MARKET RATES, WHICH MAY BE CONSIDERABLY HIGHER OR LOWER THAN THE INTEREST RATE ON THIS LOAN. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN, EVEN IF YOU OBTAIN REFINANCING FROM THE NOTEHOLDER.

It is the intention of the parties hereto to strictly conform to the applicable usury laws, all agreements between Borrower and the Lender, whether now existing or hereinafter arising, and whether written or oral, are hereby expressly limited so that in no event, whether by reason of



acceleration of the maturity of the Note, or otherwise, shall the amount paid or agreed to be paid to the holder of the Note for the use, forbearance, or other detention of the money under the Note, as modified hereunder, or otherwise exceed the maximum amount permissible under applicable law. If fulfillment of any provision of the Note, as modified hereby, or of any Mortgage or other document evidencing or securing the indebtedness evidenced by the Note at the time the performance of such a provision shall be due, shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if the holder of the Note shall ever receive anything of value deemed interest under applicable law, which would exceed interest at the highest lawful rate, an amount equal to any excessive interest shall be applied to the reduction of the principal amount owing under the Note, as modified herein, and not to the payment of interest, or, if such excessive interest exceeds the unpaid balance of principal of the Note, as modified hereby, such excess shall be refunded. All sums paid, or agreed to be paid, to the holder of the Note for the use, forbearance or other detention of the indebtedness of the obligor thereunder, to the holder of the Note, shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term of such indebtedness so that the rate of interest on account of such indebtedness is uniform throughout the term thereof. The provisions of this paragraph shall control all agreements between the obligors under the Note and the holder of the Note.

In consideration of Lender's consent to the modification of the Note, as herein provided, Borrower further hereby releases, relinquishes and forever discharges Lender, as well as its predecessors, successors, assigns, agents, officers, directors, employees and representatives of and from any and all claims, demands, actions and causes of action of any and every kind or character, whether known or unknown, present or future, which Borrower may have against Lender, and its predecessors, successors, assigns, agents, officers, directors, employees and representatives, arising out of or with respect to any and all transactions relating to the Note, and any Mortgage given in connection therewith, occurring prior to the date hereof.

Borrower hereby agrees that the modification contained herein shall in no manner impair the Note, the repayment of the indebtedness evidenced thereby, the Mortgage, any lien securing the Note, or any loan documents controlling the disbursement of loan funds; Borrower hereby expressly acknowledging the validity and enforceability of the Note as herein modified and the indebtedness evidenced thereby; the purpose of this instrument being simply to modify the terms of the Note as hereinabove stated. Borrower further acknowledges that liens securing the Note are not in any manner waived and are valid and subsisting. Borrower further agrees that, in the event of a default under the Note, nothing contained herein shall preclude the holder of the Note from foreclosing the lien of the Mortgage or enforcing, in accordance with their terms, any other instruments evidencing or securing the indebtedness evidenced by the Note.

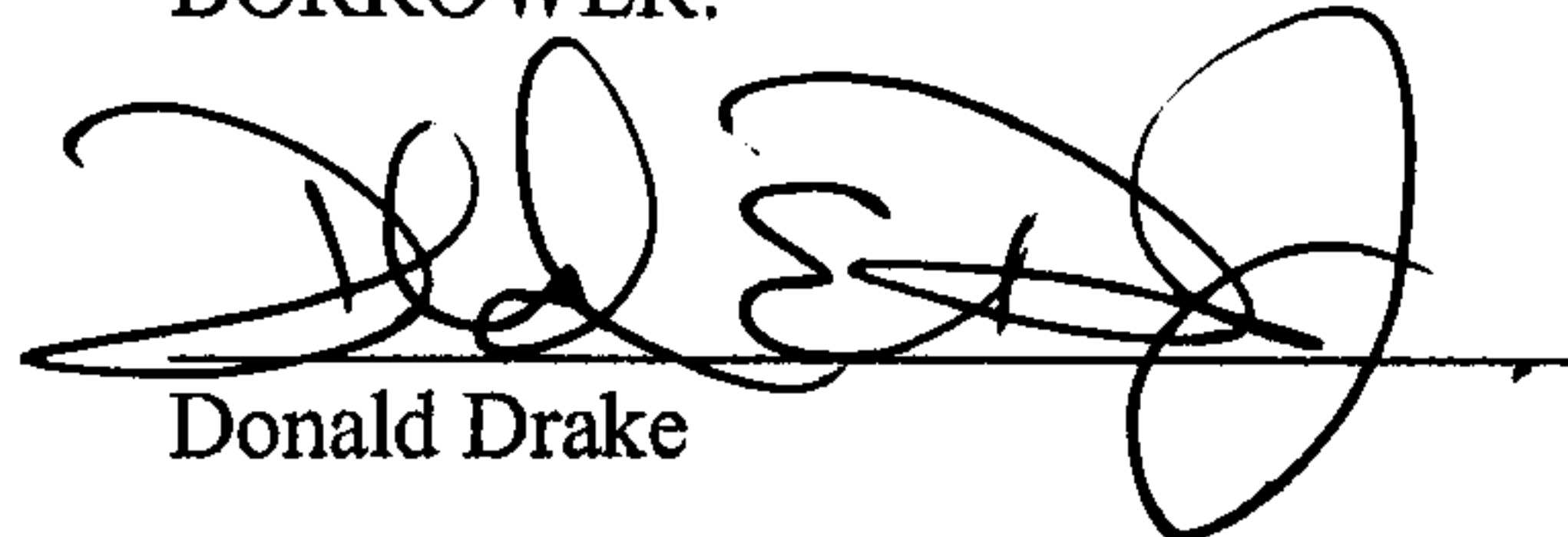
THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF

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PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

EXECUTED on this the 19 day of October, 2012, but EFFECTIVE as of the 1<sup>st</sup> day of October, 2012.

BORROWER:

  
Donald Drake

LENDER:

COMPASS BANK

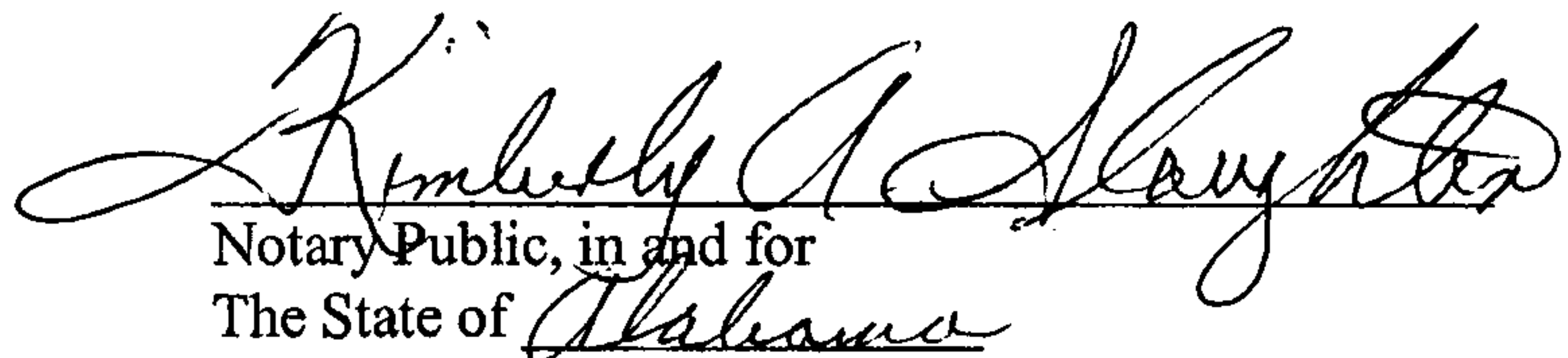
By: P. King  
ASSISTANT VICE PRESIDENT  
Its: \_\_\_\_\_

Schedule of Attachments:

Exhibit "A" - Description of Property.

THE STATE OF Alabama }  
COUNTY OF Jefferson }

This instrument was acknowledged before me on this the 19th day of October, 2012, by Donald Drake.

  
Notary Public, in and for  
The State of Alabama

Notary Stamp - Name of Notary and Date  
Commission Expires: 4-5-14



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THE STATE OF Alabama }  
COUNTY OF Jefferson }

This instrument was acknowledged before me on this the 19<sup>th</sup> day of October 2012, by Robert King, Assistant VP COMPASS BANK, on behalf of said Bank.


Kimberly A. Slaughter  
Notary Public, in and for  
The State of Alabama

Notary Stamp - Name of Notary and Date  
Commission Expires: 4-5-14

EXHIBIT "A"

Lot 19A, according to the Final Plat of the Residential Subdivision of Beaumont Phase 5, Resurvey of Lots 1-31, as recorded in Map Book 40, Page 5, in the Probate Office of Shelby County, Alabama;

Parcel ID No. 10-1-01-0-001-157, which currently has the address of 1486 Laurens Street, Birmingham, Alabama 35242.

  
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