

**OPEN-END CREDIT, FUTURE ADVANCE REAL ESTATE MORTGAGE AND SECURITY AGREEMENT**

Mortgagors (last name first):

Gray, Timothy E.

Gray, Melanie

2516 Single Tree Circle

Birmingham, AL 35242

City State Zip

Mortgagee:

 **First Commercial Bank**

Post Office Box 11746

Birmingham, Alabama 35202-1746

*This instrument was prepared by:*

Tonya Mackinaw

Home Equity Manager

**THE STATE OF ALABAMA**

Jefferson

County

**KNOW ALL MEN THESE BY THESE PRESENTS: That whereas**

Timothy E. Gray and wife, Melanie Gray

(whether one or more, hereinafter called the "Borrower") ha ve become justly indebted to FIRST COMMERCIAL BANK with offices in Birmingham, Alabama, (together with its successors and assigns, hereinafter called "Mortgagee") pursuant to an open-end line of credit, for an initial advance in the sum of Forty Dollars and NO/100\*\*\* ~~\*\*\*\*\*~~ Dollars (\$ 40.00\*\*\*\*\*)

and for all FUTURE ADVANCES, provided, however, that the maximum indebtedness at any one time shall not exceed Fourteen Thousand Dollars and No/100\*\*\*\*\* ~~\*\*\*\*\*~~ Dollars (\$ 14,000.00\*\*\*\*\*) (the "Credit Limit"), which advances Mortgagee is obligated to make pursuant to the terms and conditions of that certain Home Equity Line of Credit Agreement (the "Agreement"), of even date herewith, entered into by and between the Borrower and Mortgagee, the terms and conditions of which are hereby incorporated by reference.

NOW, THEREFORE, in consideration of the premises and in order to secure the payment of said indebtedness and any FUTURE ADVANCES made pursuant to the Agreement and any renewals or extensions thereof and the interest thereon, and all other indebtedness (including future advances) now or hereafter owed by any of the above-named to Mortgagee, whether such indebtedness is primary or secondary, direct or indirect, contingent or absolute, matured or unmatured, joint or several, and otherwise secured or not, and to secure compliance with all the covenants and stipulations hereinafter contained, the undersigned Timothy E. Gray and wife, Melanie Gray

(whether one or more, hereinafter called "Mortgagors") do hereby assign, grant, bargain sell and convey unto Mortgagee the following described real property situated in Shelby County, State of Alabama, viz:

Lot 30, according to the Survey of Wagon Trace, as recorded in Map Book 6, Page 140, in the Probate Office of Shelby County, Alabama.

Mineral and mining rights excepted.

Inst # 1995-22752

08/18/1995-22752

11:21 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 REC 37.00

SOURCE OF TITLE: Magic City Title, Inc.

together with all rents and other revenues thereof and all rights, privileges, easements, tenements, interests, improvements and appurtenances thereunto belonging or in anywise appertaining, including any after-acquired title and easements and all rights, title and interest now or hereafter owned by Mortgagors in and to all buildings and improvements, storm and screen windows and doors, gas, steam, electric, solar and other heating, lighting, ventilating, air-conditioning, refrigerating and cooking apparatus, elevators, plumbing, sprinkling, smoke, fire, and intrusion detection devices, and other equipment and fixtures now or hereafter attached or appertaining to said premises, all of which shall be deemed to be real property and conveyed by this mortgage, and all of which real property, equipment and fixtures are sometimes hereinafter called the "mortgaged property."

TO HAVE AND TO HOLD the same and every part thereof unto Mortgagee, its successors and assigns forever.

And for the consideration aforesaid, and as additional security for all of the indebtedness described above (including future advances), Mortgagors hereby assign and transfer to Mortgagee, and grant to Mortgagee a security interest in, all building materials, household appliances, equipment, fixtures and fittings of every kind or character now owned or hereafter acquired by Mortgagors, or any of them, located, whether permanently or temporarily, on the mortgaged property, and all building materials, household appliances, equipment, fixtures and fittings now owned or hereafter acquired by Mortgagors, or any of them, located or stored on any other real property, which are or shall be purchased by Mortgagors, or any of them, for the purpose, or with the intention, of making improvements on the mortgaged property or to the premises located on said property. The personal property herein transferred includes, without limitation, all lumber, bricks, building stones, building blocks, sand, cement, roofing materials, paint, doors, windows, storm doors, storm windows, nails, wires and wiring, hardware, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures, and in general all building materials, equipment and appliances of every kind and character used or useful in connection with improvements to real property.

This mortgage secures an open-end line of credit under which the Borrower may borrow and repay, and reborrow and repay, amounts from the Mortgagee from time to time up to a maximum aggregate amount. The Agreement does not require that the Borrower make any initial draw on or maintain any minimum outstanding loan balance under the line of credit. Therefore, at times there may be no outstanding indebtedness under the Agreement. However, this mortgage shall become effective immediately upon its execution and delivery, notwithstanding the lack of any initial advance and shall not be deemed satisfied nor shall title to the Real Estate be divested from the Mortgagee by the payment in full of all the indebtedness at any one time outstanding. This mortgage shall continue in effect until all of the indebtedness shall have been paid in full, the Agreement shall have been terminated, the Mortgagee shall have no obligation to extend any further credit to the Borrower thereunder and an appropriate, properly executed, written instrument in satisfaction of this mortgage shall have been duly recorded in the probate office in which this mortgage is originally recorded. The Mortgagee agrees to execute such an instrument promptly following receipt of the Borrower's written request therefor, provided that all of the conditions set forth above have been fulfilled.

For the purpose of further securing the payment of said indebtedness Mortgagors warrant, covenant and agree with Mortgagee, its successors and assigns, as follows:

1. That they are lawfully seized in fee and possessed of the mortgaged property and have a good right to convey the same as aforesaid, that they will warrant and forever defend the title against the lawful claims of all persons whomsoever, and that the mortgaged property is free and clear of all encumbrances, easements and restrictions not herein specifically mentioned.

(Complete if applicable) This Mortgage is junior and subordinate to that certain mortgage dated April 13, 1995, 19\_\_\_\_\_, and recorded at volume 1995 at page 10341 in the Probate Office of Shelby County, Alabama.

The Mortgagor authorizes the holder of a prior mortgage encumbering the Real Estate, if any, to disclose to the Mortgagee the following information: (a) the amount of indebtedness secured by such mortgage; (b) the amount of such indebtedness that is unpaid; (c) whether any amount owed on such indebtedness is or has been in arrears; (d) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; or (e) any other information regarding such mortgage or the indebtedness secured thereby which the Mortgagee may request from time to time.

2. That they will pay all taxes, assessments, or other liens taking priority over this mortgage when imposed upon the mortgaged property, and should default be made in the payment of the same, or any part thereof, Mortgagee may pay the same (but Mortgagee is not obligated to do so). If the mortgaged property or any part thereof is a unit in a condominium or a planned unit development, Mortgagors shall perform all of Mortgagors' obligations under the declaration or covenants creating or covering the condominium or planned unit development, the bylaws and regulations of the condominium or planned unit development, and constituent documents. Should Mortgagors default in any of such obligations, Mortgagee may perform Mortgagors' obligations (but Mortgagee is not obligated to do so).

3. That they will keep the buildings on the mortgaged property continuously insured in such amounts, in such manner and with such companies as may be satisfactory to Mortgagee against loss by fire (including so-called extended coverage), wind and such other hazards (including flood and water damage) as Mortgagee may specify from time to time, with loss, if any, payable to Mortgagee, and will deposit with Mortgagee policies of such insurance or, at Mortgagee's election, certificates thereof, and will pay the premiums therefor as the same become due. Mortgagors shall have the right to provide such insurance through a policy or policies independently obtained and paid for by Mortgagors or through an existing policy. Mortgagee may, for reasonable cause, refuse to accept any policy of insurance obtained by Mortgagors. Mortgagors shall give immediate notice in writing to Mortgagee of any loss or damage to the mortgaged property from any cause whatever. If Mortgagors fail to keep said property insured as above specified, Mortgagee may insure said property (but Mortgagee is not obligated to do so) for its insurable value against loss by fire, wind and other hazards for the benefit of Mortgagors and Mortgagee or for the benefit of Mortgagee alone, at Mortgagee's election. The proceeds of such insurance shall be paid by the insurer to Mortgagee, which is hereby granted full power to settle and compromise claims under all policies, to endorse in the name of Mortgagors any check or draft representing the proceeds of any such insurance, and to demand, receive and give receipt for all sums becoming due thereunder. Said insurance proceeds, if collected, may be credited on the indebtedness secured by this mortgage, less costs of collection, or may be used in repairing or reconstructing the premises on the mortgaged property, at Mortgagee's election. Any application of the insurance proceeds to repairing or reconstructing premises on the mortgaged property shall not extend or postpone the due date of any installment payments of the indebtedness hereby secured or reduce the amount of such installments.

4. That commencing upon written request by Mortgagee and continuing until the indebtedness secured hereby is paid in full, Mortgagors will pay to Mortgagee concurrently with, and on the due dates of, payments on the indebtedness hereby secured a sum equal to the ground rents, if any, next due on the mortgaged property, plus the premiums that will next become due and payable on policies of fire and other hazard insurance covering the mortgaged property, plus water rents, fire district charges, taxes and assessments next due on the mortgaged property (all as estimated by Mortgagee), less any sums already paid to Mortgagee therefor, divided by the number of months or other payment periods to elapse before one month or payment period prior to the date when such ground rents, premiums, water rents, fire district charges, taxes and assessments will become due, such sums to be held by Mortgagee in trust, to pay said ground rents, premiums, water rents, fire district charges, taxes and assessments. All payments mentioned in the preceding sentence and the payments to be made on the indebtedness secured hereby shall be added together and the aggregate amount thereof shall be paid by Mortgagors each month or other payment period in a single payment to be applied by Mortgagee to the following items in the order set forth: (a) ground rents, taxes, water rents, fire district charges, assessments, fire and other hazard insurance premiums; (b) interest on the indebtedness secured hereby; and (c) the balance, if any, shall be applied toward the payment of the sum hereby secured. Any deficiency in the amount of such aggregate monthly or other periodic payments shall constitute a default under this mortgage. Any excess funds accumulated under this paragraph after payment of the items herein mentioned shall be credited in calculating the monthly or other periodic payments of the same nature required hereunder in the subsequent year; but if the actual amount of any such item shall exceed the estimate therefor, Mortgagors shall without demand forthwith make good the deficiency. Failure by Mortgagors to do so before the due date of such item shall be a default hereunder. If the mortgaged property is sold under foreclosure or is otherwise acquired by Mortgagee after default, any remaining balance of the accumulations under this paragraph shall be credited to the principal of the secured indebtedness as of the date of the foreclosure sale or as of the date the property is otherwise acquired.

5. That they will take good care of the mortgaged property and the personal property above and will not commit or permit any waste thereon or thereof, and that they will keep the same repaired and at all times will maintain the same in as good condition as it now is, reasonable wear and tear alone excepted. If Mortgagors fail to make repairs to the mortgaged property, Mortgagee may make such repairs at Mortgagors' expense (but Mortgagee is not obligated to do so). Mortgagee, its agents and employees, may enter the mortgaged property and any improvements thereon at any reasonable time for the purpose of inspecting or repairing such improvements.

6. That all amounts expended by Mortgagee for insurance or for the payment of taxes or assessments or to discharge liens on the mortgaged property or other obligations of Mortgagors or to make repairs to the mortgaged property or any improvements thereon shall become a debt due Mortgagee, shall be payable at once without demand upon or notice to any person, shall bear interest at the rate of interest payable on the principal sum of the note described above, or if no such rate of interest is specified in the note or if the rate specified would be unlawful, at the rate of 8% per annum from the date of payment by Mortgagee, and such debt and the interest thereon shall be secured by this mortgage.

By \_\_\_\_\_

Mortgagee herein certifies that residential property is conveyed by this mortgage and that the maximum principal indebtedness to be secured by this mortgage at any one time is 14,000 upon which the mortgage tax of 21.00 is paid herewith, as allowed by Alabama Code, §40-22-2(1)(b).

FIRST COMMERCIAL BANK

Mortgagee

BY Terry M. Hirsberg  
ITS: Retail Banking Officer

THE STATE OF ALABAMA,

INDIVIDUAL ACKNOWLEDGEMENT

Jefferson COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Timothy E. Gray and wife,  
Melanie Gray

whose name s are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day  
that, being informed of the contents of the conveyance, have executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 4th day of August, 19 95

(Notarial Seal)

Stacy Smith  
Notary Public

THE STATE OF ALABAMA,

INDIVIDUAL ACKNOWLEDGEMENT

Jefferson COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_

whose name \_\_\_\_\_ signed to the foregoing conveyance and who \_\_\_\_\_ known to me, acknowledged before me on this day  
that, being informed of the contents of the conveyance, \_\_\_\_\_ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Notarial Seal)

Notary Public

THE STATE OF ALABAMA,

CORPORATE ACKNOWLEDGEMENT

\_\_\_\_\_ COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_

whose name as \_\_\_\_\_ President

of the \_\_\_\_\_, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, \_\_\_\_\_ he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Notarial Seal)

08/18/1995-22752  
11:21 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 MCB 37.00

Notary Public

PLEASE RETURN  
TO

 First Commercial Bank  
BIRMINGHAM, ALABAMA

OPEN-END CREDIT,  
FUTURE ADVANCE  
REAL ESTATE  
MORTGAGE  
AND SECURITY  
AGREEMENT

THE STATE OF ALABAMA,

\_\_\_\_\_ COUNTY.

Office of the Judge of Probate.

I hereby certify that the within mortgage was filed

in this office for record on the \_\_\_\_\_

day of \_\_\_\_\_, 19 \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and duly record in

Volume \_\_\_\_\_ of Mortgages, at page

\_\_\_\_\_ and examined.

Judge of Probate.