

1875

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## MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on June 26 19 87. The grantor is Maxwell G. Herrington, Jr., an unmarried man and Laura M. McElroy, an unmarried woman ("Borrower"). This Security Instrument is given to FIRST FEDERAL OF ALABAMA, F.S.B., which is organized and existing under the laws of the United States of America, and whose address is 312 West 18th Street — Jasper, AL 35501 ("Lender"). Borrower owes Lender the principal sum of Sixty Two Thousand and 00/100 Dollars (U.S. \$ 62,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on July 1, 2017. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns, with power of sale, the following described property located in Jefferson County, Alabama:

See Attached Exhibit "A" for legal description.

The proceeds of this loan have been applied on the purchase price of the property described herein, conveyed to mortgagors simultaneously herewith.

which has the address of 2425 Mallard Drive, Birmingham, Alabama 35216 ("Property Address");  
[Street] [City] [Zip Code]

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") equal to one-twelfth of: (a) yearly taxes and assessments which may attain priority over this Security Instrument; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard insurance premiums; and (d) yearly mortgage insurance premiums, if any. These items are called "escrow items." Lender may estimate the Funds due on the basis of current data and reasonable estimates of future escrow items.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay the escrow items. Lender may not charge for holding and applying the Funds, analyzing the account or verifying the escrow items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing that interest shall be paid on the Funds. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Security Instrument.

If the amount of the Funds held by Lender, together with the future monthly payments of Funds payable prior to the due dates of the escrow items, shall exceed the amount required to pay the escrow items when due, the excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly payments of Funds. If the amount of the Funds held by Lender is not sufficient to pay the escrow items when due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as required by Lender.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 19 the Property is sold or acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to late charges due under the Note; second, to prepayment charges due under the Note; third, to amounts payable under paragraph 2; fourth, to interest due; and last, to principal due.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 19 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. **Preservation and Maintenance of Property; Leaseholds.** Borrower shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

7. **Protection of Lender's Rights in the Property; Mortgage Insurance.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the insurance in effect until such time as the requirement for the insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

8. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

10. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

12. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

13. **Legislation Affecting Lender's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 19. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of paragraph 17.

14. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. **Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. **Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. **Borrower's Right to Reinstate.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note had no acceleration occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraphs 13 or 17.



NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

19. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraphs 13 and 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give a copy of a notice to Borrower in the manner provided in paragraph 14. Lender shall publish the notice of sale once a week for three consecutive weeks in a newspaper published in Jefferson County, Alabama, and thereupon shall sell the Property to the highest bidder at public auction at the front door of the County Courthouse of this County. Lender shall deliver to the purchaser Lender's deed conveying the Property. Lender or its designee may purchase the Property at any sale. Borrower covenants and agrees that the proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

20. Lender in Possession. Upon acceleration under paragraph 19 or abandonment of the Property, Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument.

21. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

22. Waivers. Borrower waives all rights of homestead exemption in the Property and relinquishes all rights of curtesy and dower in the Property.

23. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

- ☐ Adjustable Rate Rider      ☒ Condominium Rider      ☐ 2-4 Family Rider  
☐ Graduated Payment Rider      ☐ Planned Unit Development Rider  
☒ Other(s) [specify]      Model Mortgage Rider

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

*Maxwell G. Herrington, Jr.* (Seal)  
 Maxwell G. Herrington, Jr. —Borrower

*Laura M. McElroy* (Seal)  
 Laura M. McElroy —Borrower

[Space Below This Line For Acknowledgment]

STATE OF ALABAMA, Jefferson County ss:

On this 26th day of June, 1987, I, THE UNDERSIGNED AUTHORITY, a Notary Public in and for said county and in said state, hereby certify that Maxwell G. Herrington, Jr., an unmarried man and Laura M. McElroy, an unmarried woman, whose name(s) are signed to the foregoing conveyance, and who are known to me, acknowledged before me that, being informed of the contents of the conveyance, they executed the same voluntarily and as their act on the day the same bears date.

Given under my hand and seal of office this the 26th day of June, 1987.

My Commission expires:

MY COMMISSION EXPIRES NOVEMBER 9, 1989

Notary Public

This instrument was prepared by LAMAR HAM

ATTORNEY AT LAW

3512 OLD MONTGOMERY HWY

BIRMINGHAM, ALABAMA 35203

## EXHIBIT "A"

Unit 14-2, Building 14 in Windhover, a Condominium located at Old Rocky Ridge Road, Jefferson County, Alabama, as established by Declaration of Condominium recorded on July 23, 1975, in Real Volume 1197, page 689, in the Probate Office of Jefferson County, Alabama, and in Misc. Book 12, page 1, in the Probate Office of Shelby County, Alabama, as amended by Amendments of Declaration of Condominium recorded in Real Volume 1200, page 637, in Real Volume 1385, page 91, in Real Volume 1388, page 152, in Real Volume 1564, page 374, in Real Volume 1573, page 594, in Real Volume 1632, page 85 and Real Volume 1632, page 93, in the Probate Office of Jefferson County, Alabama, and in Misc. Book 12, page 196, in Misc. Book 18, page 28, in Misc. Book 18, page 163, in Misc. Book 24, page 465, in Misc. Book 24, page 468, in Misc. Book 26, page 329, and in Misc. Book 26, page 337, in the Probate Office of Shelby County, Alabama; together with an undivided interest in the common elements of Windhover, a Condominium, as set out in Exhibit "B" attached to said Declaration of Condominium, as it may have been or may hereafter be amended pursuant to said Declaration; said unit being more particularly detailed in the plans and drawings of said Condominium as recorded in Map Book 107, page 26, in the Probate Office of Jefferson County, Alabama, and in Map Book 6, page 52 in the Probate Office of Shelby County, Alabama, as amended by revised or supplemental plans recorded in Map Book 107, page 32, in Map Book 111, page 34, in Map Book 115, page 5, in Map Book 116, page 76, and in Map Book 116, page 77, in the Probate Office of Jefferson County, Alabama, and in Map Book 6, page 55, in Map Book 6, page 133, in Map Book 7, page 41, in Map Book 7, page 81 and in Map Book 7, page 82 in the Probate Office of Shelby County, Alabama.

MODEL MORTGAGE RIDER TO THE  
MORTGAGE/DEED OF TRUST/TRUST INDENTURE

NOTICE: THIS SECURITY INSTRUMENT SECURES A NOTE WHICH CONTAINS A PROVISION ALLOWING FOR CHANGES IN THE INTEREST RATE. INCREASES IN THE INTEREST RATE MAY RESULT IN HIGHER PAYMENTS. DECREASES IN THE INTEREST RATE MAY RESULT IN LOWER PAYMENTS.

This Rider is made on this 26th day of June, 1987, and is incorporated into and shall be deemed to amend and supplement the Mortgage/Deed of Trust/Trust Indenture (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to (FIRST FEDERAL OF ALABAMA F. S. B. (the "Lender") of the same date (the "Note") and covering the property described in the Security Instrument and located at: 2425 Mallard Drive, Birmingham, Alabama 35216  
(Property Address)

MODIFICATIONS. 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 has an initial interest rate of 8 %. The interest rate may be increased or decreased every 12th month on each "Change Date", as described in the Note. Changes in the interest rate are governed by changes in the index as defined in the Note. The index is the weekly average yield on United States Treasury securities adjusted to a constant maturity of one year, as published by the Federal Reserve Board. The maximum change in the interest rate at any one time is 2 percentage points up or down. The maximum interest rate variation over the life of the loan is 5.50 percentage points over or under the initial interest rate.

The monthly payment amount may be adjusted every 12th month to take effect on the month following each Change Date as described in the Note. The new monthly payment amount is based on the interest rate in effect on the Change Date and will remain in effect until the month following the next succeeding Change Date.

B. LOAN CHARGES

If the loan secured by the Security Instrument is subject to a law which sets maximum interest rates and loan charges and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan would exceed permitted limits, then: (1) the interest rate or any such loan charge shall be reduced to the permitted limit; and (2) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal of the Note or by making a direct payment to Borrower.

C. CONVERSION FEATURE

- (1) Borrower may, at Borrower's option and provided Borrower has been current on the loan for twelve months prior to the applicable Change Date, modify the repayment terms of the indebtedness secured hereby prior to the first, second, third, or fourth Change Date. At that time, Borrower may convert the adjustable rate loan evidenced by the Note into a fixed interest rate loan to be fully repaid in equal monthly payments of principal and interest over the remaining term of the loan (i.e., 29, 28, 27, or 26 years, depending on the conversion date selected).
- (2) Lender's "ARM Mortgage Adjustment Notice" to Borrower pursuant to paragraph 4(a) of the Note given prior to the first, second, third, or fourth Change Date shall contain the following information pertaining to Borrower's option to convert:

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- (a) the approximate fixed interest rate payable by Borrower if Borrower converts into a fixed interest rate loan (the actual rate will be the rate in effect on the date the conversion is registered);
- (b) the approximate amount of Borrower's new monthly payment at the fixed rate of interest; and
- (c) a date, at least 15 days from the date the Notice is given, by which Borrower must "lock in" an interest rate by telephoning a number provided and registering the conversion with the Lender, and a subsequent date (no later than the applicable Change Date) by which the Borrower must complete, execute and deliver to Lender a document in the form required by Lender evidencing the modification of the Note to provide a fixed interest rate.
- (3) The fixed rate of interest payable by Borrower will be identical to the Lender's market rate of price protected delivery of 30 year fixed rate, level payment, fully amortized loans on the Change Date. The borrower must comply with all requirements of the 30 year fixed rate mortgage at the time of conversion.

Borrower's monthly payments at the new fixed interest rate will begin as of the first monthly payment after the applicable Change Date. The monthly payment will be the amount that is necessary to repay in full the principal Borrower will owe (assuming timely payment of all amounts due prior to that date) on the Change Date in substantially equal payments by the maturity date set forth in the Note at the fixed interest rate.

- (4) Borrower must register the loan for conversion and must complete, execute and deliver to Lender the document evidencing the modification of the Note prior to the applicable dates set forth in Lender's ARM Mortgage Adjustment Notice as provided above. If Borrower fails to do so within the specified time frames, Borrower can no longer exercise the option to convert and in this case, the terms of the Note will continue in effect without any change.

- (5) Upon Borrower's timely delivery of the executed modification to the Note, paragraph A above shall cease to be effective.

#### D. CHARGES; LIENS

Uniform Covenant 4 of the Security Instrument is amended to read as follows:

4. Charges; Liens. Borrower shall pay all taxes, assessments, and any other charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Security Instrument; provided that Borrower shall not be required to discharge any such lien so long as Borrower: (a) shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender; (b) shall in good faith contest such lien by, or defend against enforcement of such lien in, legal proceedings which in the opinion of Lender operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof; or (c) shall secure from the holder of such lien an agreement in a form satisfactory to Lender subordinating such lien to this Security Instrument.

If Lender determines that all or any part of the Property is subject to a lien which may attain a priority over this Security Instrument, Lender shall send Borrower notice identifying such lien. Borrower shall satisfy such lien or take one or more of the actions set forth above within ten days of the giving of notice.

## E. NOTICE

Uniform Covenant 14 of the Security Instrument is amended to read as follows:

14. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by first class mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

## F. UNIFORM MORTGAGE; GOVERNING LAW; SEVERABILITY

Uniform Covenant 15 is amended to read as follows:

15. Uniform Mortgage; Governing Law; Severability. This form of Security Instrument combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Security Instrument and the Note are declared to be severable.

## G. NO FUTURE ADVANCES

Non-Uniform covenant 21 of the Security Instrument ("Future Advances") is deleted.

## H. LEGISLATION

If, after the date hereof, enactment or expiration of applicable laws have the effect either of rendering the provision of the Note, the Security Instrument or this Adjustable Rate Rider (other than this paragraph H) unenforceable according to their terms, or all or any part of the sums secured hereby uncollectable, as otherwise provided in the Security Instrument and this Adjustable Rate Rider, or of diminishing the value of the Lender's security, then Lender, at Lender's option, may declare all sums secured by the Security Instrument to be immediately due and payable. In such event, Borrower shall not have the right to reinstate otherwise provided in the Non-Uniform Covenant 19 of the Security Instrument.

## I. TRANSFER OF THE PROPERTY

Paragraph 17 of the Security Instrument is amended to read as follows:

If all or any part of the property or any interest therein is sold or transferred by Borrower without the Lender's prior written consent including a Contract for Deed sale, but excluding (a) the creation of a lien or encumbrance subordinate to the Security Instrument, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, the Lender may, at the Lender's option, declare all the sums evidenced by the Note and secured by this Security Instrument to be immediately due and payable. If the Lender exercises its option to accelerate under this paragraph, the Lender shall mail Borrower notice of acceleration in accordance with this Security Instrument. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, the Lender may, without further notice of demand on Borrower, invoke any remedies permitted by the Note and this Security Instrument.



The Lender shall have waived such option to accelerate if, prior to the sale or transfer, the Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to the Lender. As a condition to waiving the Lender's right to accelerate, the loan terms, including the interest rate payable on the note, the Margin for future interest rate changes (as that term is defined in the Note), and the maximum interest rate Cap of 5.50% above or below the initial interest rate shall be subject to modification by the Lender. If the Lender has waived the option to accelerate provided in this paragraph, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by the Lender, the Lender shall release Borrower from all obligations under this Security Instrument and the Note.

By signing this, Borrower agrees to all of the above.

Maxwell G. Herrington, Jr.  
Borrower Maxwell G. Herrington, Jr.

Laura M. McElroy  
Borrower Laura M. McElroy

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CONDOMINIUM RIDER

This Condominium Rider is made this 26th day of June 1987, and is incorporated into and shall be deemed to amend and supplement a Mortgage, Deed of Trust or Deed to Secure Debt (herein "security instrument") dated of even date herewith, given by the undersigned (herein "Borrower") to secure Borrower's Note to First Federal Savings and Loan Association of Alabama (herein "Lender") and covering the Property described in the security instrument and located at 2425 Mallard Drive, Birmingham, Alabama 35216 (Property Address)

The Property comprises a unit in, together with an undivided interest in the common elements of, a condominium project known as Windhover Condominiums (Name of Condominium Project) (herein "Condominium Project")

CONDOMINIUM COVENANTS. In addition to the covenants and agreements made in the security instrument, Borrower and Lender further covenant and agree as follows:

A. Assessments. Borrower shall promptly pay, when due, all assessments imposed by the Owners Association or other governing body of the Condominium Project (herein "Owners Association") pursuant to the provisions of the declaration, by-laws, code of regulations or other constituent document of the Condominium Project.

B. Hazard Insurance. So long as the Owners Association maintains a "master" or "blanket" policy on the Condominium Project which provides insurance coverage against fire, hazards included within the term "extended coverage", and such other hazards as Lender may require, and in such amounts and for such periods as Lender may require, then:

(i) Lender waives the provision in Uniform Covenant 2 for the monthly payment to Lender of one-twelfth of the premium installments for hazard insurance on the Property;

(ii) Borrower's obligation under Uniform Covenant 5 to maintain hazard insurance coverage on the Property is deemed satisfied; and

(iii) The provisions in Uniform Covenant 5 regarding application of hazard insurance proceeds shall be superseded by any provisions of the declaration, by-laws, code of regulations or other constituent document of the Condominium Project or of applicable law to the extent necessary to avoid a conflict between such provisions and the provisions of Uniform Covenant 5. For any period of time during which such hazard insurance coverage is not maintained, the immediately preceding sentence shall be deemed to have no force or effect. Borrower shall give Lender prompt notice of any lapse in such hazard insurance coverage.

In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any such proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by the security instrument, with the excess, if any, paid to Borrower.

C. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, partition or subdivide the Property or consent to:

(i) the abandonment or termination of the Condominium Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any material amendment to the declaration, by-laws or code of regulations of the Owners Association, or equivalent constituent document of the Condominium Project, including, but not limited to, any amendment which would change the percentage interests of the unit owners in the Condominium Project; or

(iii) the effectuation of any decision by the Owners Association to terminate professional management and assume self-management of the Condominium Project.

D. Remedies. If borrower breaches Borrower's covenants and agreements hereunder, including the covenant to pay when due condominium assessments, then Lender may invoke any remedies provided under the security instrument, including, but not limited to, those provided under Uniform Covenant 7.

IN WITNESS WHEREOF, Borrower has executed this Condominium Rider.

Maxwell G. Herrington, Jr.  
Maxwell G. Herrington, Jr. - Borrower

Laura M. McElroy  
Laura M. McElroy - Borrower

STATE OF ALA. JEFFERSON CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED ON

1987 JUL -7 AM 10:40

RECORDED & INDEXED TAX  
& \$93.00 TAX HAS BEEN  
PD. ON THIS INSTRUMENT.

O. H. Turner  
JUDGE OF PROBATE

1. Deed Tax \$  
2. Mtg. Tax 24.00 in Jeff. Co.  
3. Recording Fee 25.00  
4. Indexing Fee 1.00  
TOTAL 26.00

93.00  
26.00  
119.00

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1987 JUL 27 AM 9:28

Thomas A. Sullivan, Jr.  
JUDGE OF PROBATE