

OC87-10301

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NOTICE: THIS MORTGAGE SECURES AN OPEN-END CREDIT PLAN WHICH CONTAINS A PROVISION ALLOWING FOR CHANGES IN THE ANNUAL PERCENTAGE RATE. INCREASES IN THE ANNUAL PERCENTAGE RATE MAY RESULT IN AN INCREASED FINANCE CHARGE.

THIS IS A FUTURE ADVANCE MORTGAGE AND THE PROCEEDS OF THE OPEN-END CREDIT SECURED BY THIS MORTGAGE WILL BE ADVANCED BY THE MORTGAGEE UNDER THE TERMS OF A CREDIT AGREEMENT BETWEEN THE MORTGAGEE AND THE BORROWER NAMED HEREIN.

STATE OF ALABAMA

COUNTY OF SHELBY

ADJUSTABLE-RATE LINE OF CREDIT MORTGAGE

THIS INDENTURE is made and entered into this 7th day of July, 1987, by and between Norman Gerald Barnes and Judy C. Barnes, husband and wife (hereinafter called the "Mortgagor", whether one or more) and CARRAWAY METHODIST FEDERAL CREDIT UNION which is organized and existing under the laws of the United States of America, and whose address is 1600 North 26th Street, Birmingham, Alabama 35234 (hereinafter called the "Mortgagee").

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Recitals

A. The Secured Line of Credit. Norman Gerald Barnes and Judy C. Barnes (hereinafter called the "Borrower", whether one or more) are now or may become in the future justly indebted to the Mortgagee in the maximum principal amount outstanding at any one time of Thirty Thousand Dollars (\$30,000) (the "Credit Limit") pursuant to a certain open-end line of credit established by the Mortgagee for the Borrower pursuant to an agreement entitled, "Real Estate Equity Line of Credit Agreement", dated the 7th day of July, 1987 (the "Credit Agreement"). The Credit Agreement provides for an open-end credit plan pursuant to which the Borrower may borrow and repay, and reborrow and repay, amounts from the Mortgagee up to a maximum principal amount at any one time outstanding not exceeding the Credit Limit. Each advance must be approved by the Mortgagee and will be approved only if the Borrower's ability to repay has not been impaired or personal financial condition has not changed so that the Mortgagee would feel unsecured.

B. Rate and Payment Changes. The Credit Agreement provides for interest ("finance charges") to be

computed on the unpaid balance outstanding from time to time under the Credit Agreement at an adjustable annual percentage rate ("A.P.R."). The A.P.R. may be increased or decreased each six months based on changes in an index. The index is based on the prime rate of interest as announced by AmSouth Bank N.A., a national banking association, or if that rate ceases to be available, a comparable index selected by the Mortgagee. The A.P.R. will be 1-1/2% above this index subject to a minimum of 9% A.P.R. The A.P.R. on the date of this Mortgage is 9% 9.75%. The A.P.R. may increase or decrease on the 1st day of January, 1988, and on that day every sixth month thereafter. An increase in the A.P.R. may result in increased finance charges under the Credit Agreement.

OB 118B
OB 118A

C. Maturity Date. If not sooner terminated as set forth therein, the Mortgagee shall have the right to terminate this Mortgage at the end of fifteen (15) years from the date of this Mortgage, and all sums secured hereunder, (principal, finance charges, expenses, and charges) shall become due and payable in full.

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NOW, THEREFORE, in consideration of the premises and to secure the payment of (a) all advances heretofore or from time to time hereafter made by the Mortgagee to the Borrower under the Credit Agreement, or any extension or renewal thereof, up to a maximum principal amount at any one time outstanding not exceeding the Credit Limit; (b) all finance charges payable from time to time on said advances, or any part thereof; (c) all other charges, costs and expenses now or hereafter owing by the Borrower to the Mortgagee pursuant to the Credit Agreement, or any extension or renewal thereof; (d) all other indebtedness, obligations and liabilities now or hereafter owing by the Borrower to the Mortgagee under the Credit Agreement, or any extension or renewal thereof ((a) through (d) above, inclusive being hereinafter collectively called "Debt") and the compliance with all the stipulations herein contained, the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagee, the following described real estate, situated in Shelby County, Alabama, to-wit:

Lot 3, according to the Survey of Meadowood Estates, as recorded in Map Book 10, page 33, in the Office of the Judge of Probate of Shelby County, Alabama. Mineral and mining rights excepted.

TO HAVE AND TO HOLD unto the Mortgagee, its successors and assigns forever, together with all the improvements now or hereafter erected on the real estate and all easements, rights, privileges, tenements, appurtenances, rents, royalties, mineral, oil and gas rights, water, water rights and water stock and all fixtures now or hereafter attached thereto shall be deemed to be and remain a part of the real estate covered by this Mortgage; and all of the foregoing are hereinafter referred to as "Real Estate" and are conveyed by this Mortgage.

The Mortgagor covenants with the Mortgagee that the Mortgagor is lawfully seized in fee simple of the Real Estate and has a good right to sell and convey the Real Estate as aforesaid; that the Real Estate is free of all encumbrances, except as stated herein, and the Mortgagor will warrant and forever defend the title to the Real Estate unto the Mortgagee against the lawful claims of all persons, except as otherwise herein provided.

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This Mortgage is junior and subordinate to that certain mortgage recorded in Real Volume 131, Page 696 to City Federal Savings and Loan Association in the Probate Office of Shelby County, Alabama (hereinafter called the "First Mortgage"). It is specifically agreed that in the event default should be made in the payment of principal, interest or any other sums payable under the terms and provisions of the First Mortgage, the Mortgagee shall have the right without notice to anyone, but shall not be obligated, to pay part or all of whatever amounts may be due under the terms of the First Mortgage, and any and all payments so made shall be added to the Debt secured by this Mortgage and the debt (including all such payments) shall be immediately due and payable, at the option of the Mortgagee, and this Mortgage shall be subject to foreclosure in all respects as provided by law and by the provisions hereof.

The Mortgagor hereby authorizes the holder of the First Mortgage, if any, to disclose to the Mortgagee the following information: (1) the amount of indebtedness secured by such mortgage; (2) the amount of such indebtedness that is unpaid; (3) whether any amount owed on such indebtedness is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; and (5) any other information regarding such mortgage or the indebtedness secured thereby which the Mortgagee may request from time to time.

For the purpose of further securing the payment of the Debt, the Mortgagor agrees to: (1) pay promptly when due all taxes, assessments, charges, fines and other liens which may attain priority over this Mortgage (hereinafter jointly called "Liens"), when imposed legally upon the Real Estate and if default is made in the payment of the Liens, or any part thereof, the Mortgagee, at its option, may pay the same; (2) keep the Real Estate continuously insured, in such manner and by such companies as may be satisfactory to the Mortgagee, against loss by fire, vandalism, malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsements, with loss, if any, payable to the Mortgagee, as its interest may appear; such insurance to be in an amount sufficient to cover the Debt. The original insurance policy, and all replacements therefor, shall be delivered to and held by the Mortgagee until the Debt is paid in full. The original insurance policy and all replacements therefore must provide that they may not be cancelled without the insurer giving at least ten days prior written notice of such cancellation to the Mortgagee. The Mortgagor hereby assigns and pledges to the Mortgagee, as further security for the payment of the Debt, each and every policy of hazard insurance now or hereafter in effect which insures said improvements, or any part thereof, together with all the right, title and interest of the Mortgagor in and to each and every such policy, including but not limited to all of the Mortgagor's right, title and interest in and to any premiums paid on such hazard insurance, including all rights to return premiums. If the Mortgagor fails to keep the Real Estate insured as specified above then, at the election of the Mortgagee and without notice to any person, the Mortgagee may declare the entire Debt due and payable and this Mortgage subject to foreclosure, and this Mortgage may be foreclosed as hereinafter provided; and, regardless of whether the Mortgagee declares the entire Debt due and payable, the Mortgagee may, but shall not be obligated to, insure the Real Estate for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risks of loss, for its own benefit, the proceeds from such insurance (less cost of collecting same), if collected, to be credited against the Debt, or, at the election of the Mortgagee, such proceeds may be used in repairing or reconstructing the improvements located on the Real Estate. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagor to the Mortgagee and at once payable without demand upon or notices to the Mortgagor, and shall be secured by the lien of this Mortgage, and shall bear interest from the date of payment by the Mortgagee until paid at the rate of

interest provided for in the Credit Agreement. The Mortgagor agrees to pay promptly when due the principal and interest of the Debt and keep and perform every other covenant and agreement of the Credit Agreement secured hereby.

As further security for the payment of the Debt, the Mortgagor hereby assigns and pledges to the Mortgagee, the following described property rights, claims, rents, profits, issues and revenues:

1. All rents, profits, issues, and revenues of the Real Estate from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to the Mortgagor, so long as the Mortgagor is not in default hereunder, the right to receive and retain such rents, profits, issues, and revenues;

2. All judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Real Estate, or any part thereof, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Real Estate, or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets, and all payments made for the voluntary sale of the Real Estate, or any part thereof, in lieu of the exercise of the power of eminent domain, shall be paid to the Mortgagee. The Mortgagee is hereby authorized on behalf of and in the name of the Mortgagor to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. The Mortgagee may apply all such sums received, or any part thereof, after the payment of all the Mortgagee's expenses incurred in connection with any proceeding or transaction described in this subparagraph 2, including court costs and attorney's fees, on the Debt in such manner as the Mortgagee elects, or, at the Mortgagee's option, the entire amount or any part thereof so received may be released or may be used to rebuild, repair or restore any or all of the improvements located on the Real Estate.

The Mortgagor hereby incorporates by reference into this Mortgage all of the provisions of the Credit Agreement of even date herewith. Mortgagor agrees that, in the event that any provision or clause of this Mortgage or the Credit Agreement conflicts with applicable law, such conflict shall not affect any other provisions of this Mortgage or the Credit Agreement which can be given effect. It is agreed that the provisions of the Mortgage and the Credit Agreement are severable and that, if any one or more of the provisions contained in this Mortgage

or in the Credit Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. If enactment or expiration of applicable laws has the effect of rendering any provision of this Mortgage or of the Credit Agreement unenforceable according to its terms, Mortgagee, at its option, may require the immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted hereunder.

The Mortgagor agrees to keep the Real Estate and all improvements located thereon in good repair and further agrees not to commit waste or permit impairment or deterioration of the Real Estate, and at all times to maintain such improvements in as good condition as they are on the date of this Mortgage, reasonable wear and tear excepted.

Notwithstanding any other provision of this Mortgage or the Credit Agreement, this Mortgage shall be deemed to be in default and the Debt shall become immediately due and payable, at the option of the Mortgagee, upon the sale, lease, transfer or mortgage by the Mortgagor of all or any part of, or all or any interest in the Real Estate, including transfer of an interest by contract to sell.

The Mortgagor agrees that no delay or failure of the Mortgagee to exercise any option to declare the Debt due and payable shall be deemed a waiver of the Mortgagee's right to exercise such option, either as to any past or present default, and it is agreed that no terms or conditions contained in this Mortgage may be waived, altered or changed except by a written instrument signed by the Mortgagor and signed on behalf of the Mortgagee by one of its duly authorized representatives.

After default on the part of the Mortgagor, the Mortgagee, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Mortgage, shall be entitled to the appointment by any competent court, without notice to any party, of a receiver for the rents, issues and profits of the Real Estate, with power to lease and control the Real Estate, and with such other powers as may be deemed necessary.

UPON CONDITION, HOWEVER, that if the Mortgagor pays the Debt in full (which Debt includes (a) all advances heretofore or from time to time hereafter made by

the Mortgagee to the Borrower under the Credit Agreement or any extension or renewal thereof, up to a maximum principal amount at any one time outstanding not exceeding the Credit Limit; (b) all finance charges payable from time to time on said advances, or any part thereof; (c) all other charges, costs and expenses now or hereafter owing by the Borrower to the Mortgagee pursuant to the Credit Agreement, or any extension or renewal thereof; (d) all other indebtedness, obligations and liabilities now or hereafter owing by the Borrower to the Mortgagee pursuant to the Credit Agreement, or any extension or renewal thereof; and (e) all advances by the Mortgagee under the terms of this Mortgage and the Mortgagee is reimbursed for any amounts the Mortgagee has paid in payment of Liens and insurance premiums or any prior mortgages, and interest thereon, and the Mortgagor fulfills all of the Mortgagor's obligations under this Mortgage, then this conveyance shall be null and void. But If: (1) any warranty or representation made in this Mortgage or the Credit Agreement is breached or proves false in any material respect; (2) default is made in the due performance of any covenant or agreement of the Mortgagor under this Mortgage or of the Borrower under the Credit Agreement; (3) default is made in the payment to the Mortgagee of any sum paid by the Mortgagee under the authority of any provision of this Mortgage; (4) the Debt, or any part thereof, or any other indebtedness, obligation or liability of the Borrower, the Mortgagor, or any of them, to the Mortgagee remains unpaid at maturity; (5) the interest of the Mortgagee in the Real Estate becomes endangered by reason of the enforcement of any prior lien or encumbrance; (6) any statement of lien is filed against the Real Estate, or any part thereof, under the statutes of Alabama relating to the liens of mechanics and materialmen (without regard to the existence or nonexistence of the debt or the lien on which such statement is based); (7) any law is passed imposing or authorizing the imposition of any specific tax upon this Mortgage or the Debt or permitting or authorizing the deduction of any such tax from the principal or interest of the Debt, or by virtue of which any tax lien or assessment upon the Real Estate shall be chargeable against the owner of this Mortgage; (8) any stipulation contained in this Mortgage is declared invalid or inoperative by any court of competent jurisdiction; (9) the Borrower, the Mortgagor or any of them (a) shall apply for or consent to the appointment of receiver, trustee or liquidator thereof or of the Real Estate or of all or a substantial part of such Borrower's or Mortgagor's assets, (b) to be adjudicated a bankrupt or insolvent or file a voluntary petition in bankruptcy, (c) fail, or admit in writing such Borrower's or

Mortgagor's inability, generally to pay such Borrower's or Mortgagor's debts as they become due, (d) make a general assignment for the benefit of creditors, (e) file a petition or answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law, (f) file an answer admitting the material allegations of, or consent to, or default in answering a petition filed against such Borrower or Mortgagor in any bankruptcy, reorganization or insolvency proceedings; (10) an order for relief or other judgment or decree shall be entered by any Court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Borrower or Mortgagor, or any of them, or appointing a receiver, trustee or liquidator of any Borrower or Mortgagor or of the Real Estate or of all or a substantial part of the assets of any Borrower or Mortgagor; or (11) any other default occurs under the Credit Agreement or (12) the Real Estate, or any part thereof, or any interest therein, is sold, leased, transferred or further encumbered; then, upon the happening of any one or more of said events, at the option of the Mortgagee, the unpaid balance of the Debt shall at once become due and payable and this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due Mortgages; and the Mortgagee shall be authorized to take possession of the Real Estate and, after giving notice of the time, place and terms of the sale by publication once a week for three consecutive weeks in some newspaper published in the County in which the Real Estate is located, to sell the Real Estate in front of the Courthouse door of said county, at public outcry, to the highest bidder for cash and to apply the proceeds of said sale as follows: first, to the expense of advertising, selling and conveying the Real Estate and foreclosing this Mortgage, including a reasonable attorney's fee; second, to the payment of any amounts that have been spent, or that it may then be necessary to spend, in paying insurance premiums, liens or other encumbrances, with interest thereon; third, to the payment in full of the balance of the Debt and interest thereon, whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the day of sale and any unearned interest shall be credited to the Mortgagor; and fourth, the balance, if any, to be paid to party or parties appearing of record to the owner of the Real Estate at the time of sale, after deducting the cost of ascertaining who is such owner. The Mortgagor agrees that the Mortgagee may bid at any sale had under the terms of this Mortgage and may purchase the Real Estate if the highest bidder therefor. At the foreclosure sale the Real Estate may be offered for sale and sold as a whole without first offering it in any other manner or may be offered

for sale and sold in any other manner the Mortgagee may elect. The Mortgagor agrees to pay all costs, including reasonable attorney's fees, incurred by the Mortgagee in collecting or securing or attempting to collect or secure the Debt, or any part thereof, or in defending or attempting to defend the priority of this Mortgage against any lien or encumbrance on the Real Estate, unless this Mortgage is herein expressly made subject to any such lien or encumbrance; and/or all costs incurred in the foreclosure of this Mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction. The full amount of such costs incurred by the Mortgagee shall be a part of the Debt and shall be secured by this Mortgage. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. In the event of a sale hereunder, the Mortgagee, or the owner of the Debt and Mortgage, or auctioneer, shall execute to the purchaser for and in the name of the Mortgagor a deed to the Real Estate.

Mortgagor waives all rights of homestead exemption in the Real Estate and relinquishes all rights of courtesy and dower in the Real Estate.

Plural or singular words used herein to designate the undersigned shall be construed to refer to the maker or makers of this Mortgage, whether one or more natural persons. All covenants and agreements herein made by the undersigned shall bind the heirs, personal representatives, successors and assigns of the undersigned, and every option, right and privilege herein reserved or secured to the Mortgagee, shall inure to the benefit of the Mortgagee's successors and assigns.

Mortgagee certifies that if at any point this mortgage is assigned to a non-tax exempt holder, that the holder will comply with Ala. Code § 40-22-2(2)(b)(1975).

IN WITNESS WHEREOF, the undersigned Mortgagors have executed this instrument on the date first written above.



Mortgagor - Norman Gerald Barnes



Mortgagor - Judy C. Barnes

ACKNOWLEDGMENT

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public, in and for said County in said State, hereby certify that Norman Gerald Barnes and Judy C. Barnes, husband and wife, whose names 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 said conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 7th day of July, 1987.

My commission expires:

5-12-90

William D. Wise
NOTARY PUBLIC, William D. Wise

THIS INSTRUMENT PREPARED BY: William D. Wise, Attorney for Carraway Methodist Federal Credit Union, 1600 North 26th Street, Birmingham, Alabama 35234. (205) 226-6298.

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NO TAX COLLECTED

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1987 SEP 11 AM 9:27

Thomas A. Shoulard Jr.
JUDGE OF PROBATE

1. Deed Tax \$ 0.00
2. Mfg. Tax 0.00
3. Recording Fee 25.00
4. Indexing Fee 1.00
TOTAL 26.00