

1099

ADJUSTABLE RATE MORTGAGE

THE STATE OF ALABAMA
Jefferson COUNTY

THIS MORTGAGE, made and entered into this 14 day of March, 19 88 by and between Robert W. Smith, a married man (hereinafter referred to as "Mortgagor", whether one or more), and America's First Credit Union (hereinafter referred to as "Mortgagee")

WITNESSETH:

WHEREAS, the said Robert W. Smith, a married man is (are) justly indebted to Mortgagee in the sum of One-hundred-thousand and 00/100 dollars (\$ 100,000.00) as evidenced by an Adjustable Rate Mortgage Note (Promissory Note) of even date herewith, which bears interest as provided therein and which is payable in accordance with its terms.

NOW, THEREFORE, in consideration of the premises, and to secure the payment of the debt evidenced by said note and any and all extensions and renewals thereof, or of any part thereof, and any additional interest that may become due on any such extensions and renewals, or any part thereof (the aggregate amount of such debt, including any extensions and renewals and interest due thereon, is hereinafter collectively called "Debt") and 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 (said real estate being hereinafter called "Real Estate"), to-wit:

See Legal Description Attached

This is not the Homestead of the Mortgagor, Robert W. Smith

Together with all the rights, privileges, tenements, appurtenances and fixtures appertaining to the Real Estate, all of which shall be deemed Real Estate and shall be conveyed by this mortgage.

TO HAVE AND TO HOLD the Real Estate unto the Mortgagee, its successors and assigns forever. 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 the lien of current ad valorem taxes, 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.

For the purpose of further securing the payment of the debt, the Mortgagor agrees to: (1) pay promptly when due all taxes, assessments, and other liens taking 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 in 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 interests 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 therefor must provide that they may not be cancelled without the insurer giving at least fifteen 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 and this mortgage subject to foreclosure, 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 notice to the Mortgagor, and shall be secured by the lien of this mortgage, and shall bear interest from date of payment by the Mortgagee until paid at the then current junior mortgage rate at said Credit Union; (3) pay promptly when due the principal and interest of the debt and keep and perform every other covenant and agreement of the adjustable rate mortgage note 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.

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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, 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 Adjustable Rate Mortgage Note of even date herewith. Mortgagor agrees that, in the event that any provision or clause of this Adjustable Rate Mortgage or of the Adjustable Rate Mortgage Note conflict with applicable law, such conflict shall not affect any other provisions of this Adjustable Rate Mortgage or of the Adjustable Rate Mortgage Note which can be given effect. It is agreed that the provisions of this Adjustable Rate Mortgage and the Adjustable Rate Mortgage Note are severable and that, if any one or more of the provisions contained in this Adjustable Rate Mortgage or in the Adjustable Rate Mortgage Note 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; this Mortgage shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

The Mortgagor agrees to take good care of the Real Estate and all improvements located thereon and not to commit or permit any waste thereon, and at all times to maintain such improvements in as good condition as they now are, reasonable wear and tear excepted.

If all or any part of the Real Estate or an interest therein is sold or transferred by Mortgagor without Mortgagee's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage (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, Mortgagee may, at Mortgagee's option, declare all the sums secured by this Mortgage to be immediately due and payable. Mortgagee shall have waived such option to accelerate if, prior to the sale or transfer, Mortgagee and the person to whom the Real Estate is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Mortgagee.

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 proceeding 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 (which debt includes the indebtedness evidenced by the promissory note or notes hereinabove referred to and any or all extensions and renewals thereof and any interest due on such extensions and renewals) and all other indebtedness secured hereby and reimburses the Mortgagee for any amounts the Mortgagee has paid in payment of Liens or insurance premiums, and interest thereon, and fulfills all of Mortgagor's obligations under this mortgage, this conveyance shall be null and void. But if: (1) any warranty or representation made in this mortgage 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; (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, 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 of the stipulations contained in this mortgage is declared invalid or inoperative by any court of competent jurisdiction; (9) Mortgagor, or any of them (a) shall apply for or consent to the appointment of a receiver, trustee or liquidator thereof or of the Real Estate or of all or a substantial part of such Mortgagor's assets, (b) be adjudicated a bankrupt or insolvent or file a voluntary petition in bankruptcy, (c) fail, or admit in writing such Mortgagor's inability, generally to pay such Mortgagor's debts as they come due, (d) make a general assignment for the benefit of creditors, (e) file a petition or an 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 Mortgagor in any bankruptcy, reorganization or insolvency proceedings; or (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 Mortgagor, or any of them, if more than one, or appointing a receiver, trustee or liquidator of any Mortgagor or of the Real Estate or of all or a substantial part of the assets of any Mortgagor; 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 at least twenty-one days' notice of the time, place and terms of 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 be 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.

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.

IT WITNESS WHEREOF, the undersigned Mortgagor has (have) executed this instrument on the date first written above.

Robert W. Smith (SEAL)
Robert W. Smith (SEAL)
____ (SEAL)
____ (SEAL)

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ACKNOWLEDGEMENT

STATE OF ALABAMA
Jefferson County

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

Robert W. Smith, a married man
whose name(s) is (are) signed to the foregoing instrument, and who is (are) known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 14th day of March, 19 88

Belle R. Parsons
Notary Public

This instrument prepared by:

(Name) _____

(Address) _____

This is the legal description given by Robert W. Smith, a married man to America's First Credit Union in the amount of \$1000,00.00 on March 14, 1988.

Begin at the NE corner of NW1/4 of SE1/4, Section 6, Township 21 South, Range 1 East, thence run south along the east line of said 1/4 1/4 section a distance of 2581.52 feet, thence turn an angle of 89 deg. 58 min. 05 sec. to the right and run a distance of 1258.03 feet to a point on the east right of way line of Shelby County Highway #49; thence turn an angle of 90 deg. 18 min. 18 sec. to the right and run along the said highway right of way a distance of 496.30 feet, thence turn an angle of 89 deg. 40 min. to the right and run a distance of 660 feet, thence turn an angle of 91 deg. 07 min. 30 sec. to the left and run a distance of 660 feet, thence turn an angle of 88 deg. 52 min. 30 sec. to the left and run a distance of 660 feet to the east right of way line of Shelby County Highway #49, thence turn an angle of 88 deg. 52 min. 30 sec. to the right and run along said highway right of way a distance of 530 feet, thence turn an angle of 91 deg. 07 min. 30 sec. to the right and run a distance of 210 feet, thence turn an angle of 91 deg. 07 min. 30 sec. to the left and run a distance of 895 feet to a point on the north line of the NW1/4 of the SE1/4 of said Section 6, thence turn an angle of 91 deg. 07 min. 30 sec. to the right and run a distance of 1088.8 feet to the point of beginning. Situated in the West 1/2 of the SE 1/4, Section 6, Township 21 South, Range 1 East, Shelby County, Alabama.

ALSO, Commence at the NW corner of the NE 1/4 of the SW 1/4, Section 6, Township 21 South, Range 1 East; thence run East along the North line of said 1/4 1/4 Section a distance of 1282.77 feet to a point on the West right of way line of Shelby County Highway #49; thence turn an angle of 88 deg. 55 min. to the right and run along said Highway right of way a distance of 916.00 feet to the point of beginning; thence continue along said highway right of way a distance of 338.82 feet; thence turn an angle of 91 deg. 05 min. to the right and run a distance 733.00 feet; thence turn an angle of 88 deg. 55 min. to the right and run a distance of 1214.82 feet; thence turn an angle of 91 de. 05 min to the right and run a distance of 36.00 feet; thence turn an angle of 88 deg. 55 min to the right and run a distance of 876.00 feet; thence turn an angle of 88 deg. 55min. to the left and run a distance of 697.00 feet to the point of beginning. Situated in the NE 1/4 of SW 1/4 Section 6, Township 21 South, Range 1 East, Huntsville Meridian, Shelby County, Alabama.

This is the legal description given by Robert W. Smith, a married man to America's First Credit Union in the amount of \$100,000.00 on March 14, 1988.

ALSO, Commence at the Northwest corner of the NE 1/4 of the SW 1/4, Section 6, Township 21 South, Range 1 East; thence run East along the North line of said 1/4 1/4 Section a distance of 1282.77 feet to a point on the West right of way line of Shelby County Highway No. 49; thence turn an angle of 88 deg. 55 min. to the right and run along said highway right of way a distance of 790.00 feet to the point of beginning; thence continue in the same direction along said highway right of way a distance of 126.00 feet; thence turn an angle of 91 deg. 05 min. to the right and run a distance of 697.00 feet; thence turn an angle of 88 deg. 55 min. to the right and run a distance of 126.00 feet thence turn an angle of 91 deg. 05 min. to the right and run a distance of 697.00 feet to the point of beginning. Situated in the NE 1/4 of the SW 1/4, Section 6, Township 21 South, Range 1 East, Shelby County, Alabama.

ALSO, Commence at the Northwest corner of the NE 1/4 of the SW 1/4, Section 6, Township 21 South, Range 1 East; thence run East along the North line of said 1/4 1/4 Section a distance of 1282.77 feet to a point on the West right of way line of Shelby County Highway No. 49, thence turn an angle of 88 deg. 55 min. right and run along the said highway right of way a distance of 40.00 feet to point of beginning; thence continue in the same direction along said highway right of way a distance of 750.00 feet; thence turn an angle of 91 deg. 05 min. to the right and run a distance of 697.00 feet; thence turn an angle of 88 deg. 55 min. to the right and run a distance of 750.00 feet; thence turn an angle of 91 deg. 05 min. to the right and run a distance of 697.00 feet to point of beginning. Situated in Shelby County, Alabama.

ALSO, Commence at the NE corner of the NW 1/4 of the SE 1/4, Section 6, Township 21 South, Range 1 East, thence run West along the North line of said 1/4 1/4 Section a distance of 1298.80 feet to the East right of way line of Shelby County Highway No. 49; thence turn an angle of 91 deg. 07 min. 30 sec. to the left and run along said highway right of way a distance of 390.89 feet to the point of beginning; thence continue along said highway right of way a distance of 504.11 feet; thence turn an angle of 88 deg. 52 min. 30 sec. to the left and run a distance of 210.00 feet; thence turn an angle of 91 deg. 07 min. 30 sec to the left and run a distance of 508.23 feet; thence turn an angle of 90 deg. 00 min. to the left and run a distance of 210.00 feet to the point of beginning. Situated in the NW 1/4 of the SE 1/4, Section 6, Township 21 South, Range 1 East, Shelby County, Alabama.

This is the legal description given by Robert W. Smith, a married man to America's First Credit Union in the amount of \$100,000.00 on March 14, 1988.

ALSO, Commence at the NW corner of the NE 1/4 of the SW 1/4, Section 6, Township 21 South, Range 1 East, thence run East along the North line of said 1/4 1/4 Section a distance of 549.77 feet; thence turn an angle of 88 deg. 55 min. 00 sec. to the right and run a distance of 40.00 feet to the point of beginning; thence continue in the same direction a distance of 1214.82 feet; thence turn an angle of 91 deg. 05 min. 00 sec. to the right and run a distance of 442.00 feet; thence turn an angle of 88 deg. 05 min. 00 sec. to the right and run a distance of 1210.83 feet; thence turn an angle of 48 deg. 18 min. 00 sec. to the right and run a distance of 5.88 feet; thence turn and angle of 42 deg. 47 min. 00 sec. to the right and run a distance of 437.61 feet to the point of beginning. Situated in the NE 1/4 of the SW 1/4 of Section 6, Township 21 South, Range 1 East, Shelby County, Alabama.

ALSO, Commence at the NW corner of the NE 1/4 of the SW 1/4 of Section 6, Township 21 South, Range 1 East, thence run East along the North line of said 1/4 1/4 Section a distance 549.77 feet; thence turn an angle of 88 deg. 55 min. 00 sec. to the right and run a distance of 1254.82 feet; thence turn an angle of 91 deg. 05 min. 00 sec. to the right and run a distance of 442.00 feet to the point of beginning; thence continue in the same direction a distance of 126.75 feet to a point on the West line of said NE 1/4 of the SW 1/4, thence turn an angle of 90 deg. 13 min. to the left and run South along the West line of said 1/4 1/4 Section a distance of 73.65 feet, to the Southwest corner of the NE 1/4 of the SW 1/4; thence turn and angle of 90 deg. 13 min. to the right and run a distance of 69.97 feet; thence turn an angle of 89 deg. 47 min. 00 sec. to the right and run a distance of 1119.74 feet; thence turn an angle of 47 deg. 26 min. 00 sec. to the right and run a distance of 95.00 feet, to a point on the West line of the NE 1/4 of the SW 1/4; thence continue in the same direction a distance of 147.23 feet; thence turn an angle of 131 deg. 42 min. to the right and run a distance of 1210.83 feet to the point of beginning. Situated in the N 1/2 of the SW 1/4, Section 6, Township 21 South, Range 1 East, Shelby County, Alabama.

LESS AND EXCEPT, Begin at the Northeast corner of the NW 1/4 of the SE 1/4 of Section 6, Township 21 South, Range 1 East, thence run South along the East line of said 1/4 1/4 Section a distance of 897.55 feet;

thence turn an angle of 90 deg. 03 min. 41 sec. to the right and run a distance of 1280.32 feet to the East right of way line of Shelby County Highway No. 49; thence turn an angle of 88 deg. 45 min. 12 sec. to the right and run along said highway right of way a distance of 504.11 feet; thence turn an angle of 90 deg. 00 min. 00 sec. to the right and run a distance of 210.00 feet; thence turn an angle of 90 deg 00 min. to the left and run a distance of 386.77 feet to the North line of said 1/4 1/4 Section; thence turn an angle of 91 deg. 07 min. 30 sec to the right and run along the North line of said 1/4 1/4 Section a distance of 1088.8 feet to the point of beginning. Situated in the NW 1/4 of the SE 1/4, Section 6, Township 21 South, Range 1 East, Shelby County, Alabama; being situated in Shelby County, Alabama.

All being situated in Shelby County, Alabama.

1. Deed Tax	\$	—
2. Mig Tax		—
3. Recording Fee		15.00
4. Indexing Fee		1.00
TOTAL		16.00

STATE OF ALA. SHELBY
I CERTIFY THIS
INSTRUMENT WAS FILED

88 MAR 15 AM 11:33

James A. [Signature]
JUDGE OF PROBATE

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