APCO EMPLÓYEES CREDIT UNION 1608 SEVENTH AVENUE NORTH BIRMINGHAM, ALABAMA 35203

THIS INSTRUMENT PREPARED BY



1942 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 MORTGAGOR (BORROWER) NAMED HEREIN. STATE OF ALABAMA SHELBY COUNTY OF ADJUSTABLE-RATE LINE OF CREDIT MORTGAGE 1608 SEVENTH AVE., NO., BIRMINGHAM, AL 35203 APCO EMPLOYEES CREDIT UNION Mortgagee's Address: Anthony S. Kirk and wife, Rena B. Kirk Mortgagor(s): Date Mortgage Executed: April 20, 1988 Shelby County, Alabama ___ Maturity Date: April 20, 2008 Credit Limit \$ 21,000.00 County Where the Property is Situated: . to APCO Employees Credit Union filed simultaneously herewith. THIS INDENTURE is made and entered into on the date stated above as "Date Mortgage Executed," by and between the above stated "Mortgagor(s)" (hereinafter called the "Mortgagor", whether one of more) and the above stated "Mortgages" which is organized and existing under the laws of Atabama, and whose address is stated above as "Mortgages Address." Recitals A. The Secured Line of Credit. The "Mortgagor", (whether one or more) is now or may become in the future justly indebted to the Mortgages in the maximum principal amount as stated above as "Credit Limit". This indebtedness is evidenced by a certain open-and line of credit established by the Mortgagor pursuant to an agreement entitled, "Home Line Credit Agreement". of even data, (the "Cradit Agreement"). The Cradit Agreement provides for an open-end credit plan pursuant to which the Borrower may borrow and repay, and reborrow and repay, amounts from the Mortgages up to a maximum principal amount at any one time outstanding not exceeding the Credit Limit. B. Rate and Psyment Changes. The Cradit Agreement provides for finance charges to be computed on the unpeid belance outstanding from time to time under the Cradit Agreement at an adjustable? (annual percentage rate. The annual percentage rate may be increased or decreased based on changes in an index. C. Maturity Date. If not sooner terminated as set forth therein, the Credit Agreement will terminate on the date stated above as the "Maturity Date", and all sums payable thereunder (principal, interest, expenses and charges) shall become due and payable in full. Agreement 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 Mortgages to the Borrower under the Cred 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 linence 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 (harsof; (d) all other indebtedness, obligations and liabilities now or hereafter owing by the Borrower to the Mortgages under the Cradit Agreement, or any extension of or renewal thereof; and (e) all advances by the Mortgagee under the terms of this Mortgage (the aggregate emount of all such lients described in (a) through (e) above being hereinather collectively called "Debt") and the compliance with all the stipulations herein contained, the Mortgagor dose hereby grant, bargain, sell and convey unto the Mortgagos, the following described real estate, situated in the county stated above as the County where the property is situated, such county being, within the State of Alabama and described in attached Schedule "A", (said real estate being hereinafter called "Real Estate"). TO HAVE AND TO HOLD the real estate unto the Mortgages, its successors and assigns forever, together with all the improvements now or hereefter erected on the real estate and all easements. nghts, privileges, tenements, appurtenances, rents, royalties, mineral, oil and gas nghts, water rights and water stock and all fixtures now or hereafter attached to this real estate, all of which, CONTINUED ON BACK Mortgagor(s) agree(s) that all of the provisions printed on the reverse side hereof are agreed to and eccepted by Mortgagor(s) and constitute valid and enforceable provisions of this Mortgage. IN WITNESS WHEREOF, the undersigned Mortgagor(s) has (have) executed this instrument on the date LS1 PAGE 461 (SEAL) (SEAL) (SEAL) **ACKNOWLEDGEMENT** STATE OF ALABAMA COUNTY OF **JEFFERSON** I, the undersigned authority, a Notary Public, in and for said County in said State, hereby certify that Anthony S. Kirk and wife, Rena B. Kirk whose name(s) % (are) signed to the foregoing conveyance, and who % (are) known to me, acknowledged before me on this day that, being informed <u>the Y</u> executed the same voluntarily on the day the same bears date. of the contents of said conveyance, ____ Given under my hand and official seal this 20th day of 7 April My commission expires: 10/31/91

Douglas Key, Atty., 2100 11th Ave. No., B'ham, AL 35234

including replacements and additions 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 shall be conveyed by this Mortgage

The Mortgagor covenants with the Mortgagoe that the Mortgagor is tawfully 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 Mortgagoe against the lawful claims of all persons, except as otherwise herein provided

This Mortgage is junior and subordinate to that certain Mortgage if stated above as "First Mortgage". If there is such first mortgage if is recorded in the Probate Office in the County where the property is situated (hereinafter called the "First Mongage"). It is specifically agreed that in the event detault should be made in the payment of principal, interest or any other sums payable under the terms and provisions of the First Mortgage. The Mortgages shall have the right without notice to anyone, but shall not be obligated, to pay part of 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 Mortgages, 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 any prior mortgage encumbering the Real Estate 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 indebtodness secured thereby; and (5) any other information regarding such mortgage or the indebtodness 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 tiens which may after 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 Mortgages, 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 the vandalism, malicious mischiel and other penils 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 in cover the Debt. The original insurance policy, and all replacements therefor, shall be delivered to and held by the Mortgages 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 ten days prior written notice of such cancellation to the Mortgages. The Mortgages 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, OH 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 the Mortgagor's right, title and interest in and to any premiums paid on such hazard insurancif. 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 Mortgagos and without notice to any person, the Mortgageo 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 lessor amount as the Mongagee 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 Mortgages to the Mortgages and at once payable without demand upon or notice to the Mortgager, and shall be secured by the lien of this Mortgage, and shall bear interest from the date of payment by the Morigages until paid at the rate of interest provided for in the Credit Agreement. The Morigagor agrees to pay promptly when due the principal and intorest 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 Mortgages, the following described property rights, claims, rents, profits, issues and revenues: I. All rents, profils, 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, profile, 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 paymonts 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 betight of and in the name of the Mortgagor to execute and deliver valid acquittances for or any such judgments or awards. The Mortgages 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 Mortgague 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 conflict 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 one or more of the provisions contained in this Mortgage or in the Credit Agreement shall for any reason be liefd 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, Legillogal or unenforceable provision had never been contained herein. It enactment or expiration of applicable laws has the effect of rendering any provision of this Mortgage or of the Credit Agreement ununforceable 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 remadies 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, such at all times to maintain such improvements in as good condition as they are, reasonable wear and tear excepted.

Notwithstanding any other provision of this Mortgage or the Credit Agraement, this Mortgage shall be deemed to be in default and the Debt shall become immediately due and payable, at the option of the Mortgages, 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 self.

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, eather as to any past or present default, and it is agreed that no terms or conditions contained in this Mortgage may be warved, altered or changed except by a written instrument aigned by the Mortgagor and signed on behalf of the Mortgages by one of its duly authorized representatives

After delault on the part of the Mortgages, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Mortgages, shall be entitled to the appointment by any compotent 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 herefolors or from time to time hereafter made by the Mortgages 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 hererafter owing by the Borrower to the Mortgagee pursuant to the Credit Agreement, or any extension or tenuwal 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 Mortgagur's obligations under this Mortgage, then this conveyance shall be null and void. But # (1) any warranty or representation made in this Mortgage or Credit Agreement is breached or proves false in any material respect; (2) default is made in the due performance of any covertant or agreement of the Mortgagor under this Mortgage or the Borrower under the Credit Agreement, (3) default is made in the payment to the Mortgages of any sum paid by the Mortgages 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 Mortgagoe remains unpaid at maturity; (5) the interest of the Murtgages in the Rasi Estate becomes endangered by reason of the enforcement of any prior tien or encumbrance; (6) any statement of tien is lifed against the Real Estate, or any part thereof, under Total 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 writte of which any tax lien or assessment upon the Real Estate shall be chargeable against the owner of this Mortgage; (6) any of the stipulations contained in this Mortgage is declared award or moperative 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 a receiver, trustee or liquidator thereof or olganic The Real Estate or of all or a substantial part of such Borrower's or Mortgagor's assets, (b) be adjudicated a benkrupt or insolvent or file a voluntary petition in bankruptcy, (c) fail, or admit in writing such dorrower's or Mongagor's mability, generally to pay such Borrower's or Mongagor's debts as they come due, (d) make a general assignment for the benefit of creditors, (e) tile a petition or en-2 to 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 polition filed against such Borrower or Mongagor 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 paradiction, approving a petition seeking liquidation or reorganization of the Borrower or Mortgagor, or any of them, if more than one, or appointing a receiver, trustee or liquidation of any. Borrower or Mortgagor or of the Real Estate or of all or a substantial part of the assets of any Sorrower or Mortgagor; or (11) any other default occurs under the Credit Agreement; then, upon the happening of any one or more of said events, at the option of the Mortgages, the unpaid balance of the Debt shaft 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 morigages; and the Mortgagee shall be authorized to take possession of the Real Estate and, after giving 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 Ironi of the courthouse door of said county, at public butchy, 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 altorney's lee, second, to the payment of any amounts that have been spent, or that it may then be necessary to spend, in paying insurance premiums, flens 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, d any, to be paid to parties appearing of record to the owner of the Real Estate and the time of sale, after deducting the cost of ascertaining who is such owner. The Mortgagor agrees that the Mortgagoe may bid at any sale had under the terms of this Mortgage and may purchase the Real Estate if the highest bidder thereof. At the foreclosure sale the Real Estate may be offered for sale and sold as a whole without first offering if in any other manner or may be offered for sale and sold in any other manner the Mortgages may elect. The Mortgages agrees to pay all costs, including reasonable attorney's less, incurred by the Mortgages in collecting or securing or attempting to collect or secure the Debt, or any part ittereof, or in defending or attempting to defend the priority of this Mortgage against any lien or encumbrance on the Floal Estate, unless this Mortgage is herein expressly made subject to any such lien or encumbrance, and/or all costs incurred in the forectosuse of this Mortgage, either under the power of sale contained. herent, or by virture of the decree of any court of competent jurisdiction. The full amount of such costs incurred by the Mortgages shall be a part of the Debt and shall be secured by this Mortgages. 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 Murtgage, or auctioneer, shall execute to the purchaser for end 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 curtesy and dower in the Real Estate.

Plural or singular words used herein to designate the undersigned shall be construed to refer to the makers of this Mortgage, whether one or more natural persons. All convenants 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 Mortgages, shall inure to the benefit of the Mortgages's successors and assigns

O C. Stephen Trimmler, 1986, All Rights Reserved

NOTE TO CLERK OF THE PROBATE OFFICE. Mortgages certifies that if at any point this Mortgage is assigned to a Non-tax exempt Holder, that such Holder will comply with Alabama Code § 40-22-2(b). (1975) as to recording iges and taxes that may be owed upon such assignment

Rev 12/1/86

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Lot 32, according to the survey of Hickory Ridge, as recorded in Map Book 11, page 59, and amended in Map Book 11, page 79, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Mineral and mining rights excepted.

ANTHONY & KIDY

Dance R 1

RENA B. KIRK

BOOK 181 MGE 463

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

88 APR 26 AH 9: 25

JUDGE OF PROBATE

1. Deed Tax \$

2. Mtg. Tax

Exempt

3. Recording Fee 7.50

4. Indexing Fee 1.00

TOTAL

<u>8.5</u>0