

603

Dale C. Smith or
Elizabeth H. Smith
5317 Mountain Park Circle
Helena, Alabama 35080

MORTGAGOR
"I" includes each mortgagor above.

This instrument was prepared by
(Name) Andy Thomure
(Address) _____

**JEFFERSON FEDERAL SAVINGS
& LOAN ASSOCIATION**
215 NORTH 21ST STREET
BIRMINGHAM, ALABAMA 35203

MORTGAGEE
"You" means the mortgagee, its successors and assigns.

REAL ESTATE MORTGAGE: For value received, I, Dale C. Smith and Elizabeth H. Smith, mortgage, grant, bargain, sell and convey to you, with power of sale, to secure the payment of the secured debt described below, on 10/25/88, the real estate described below and all rights, easements, appurtenances, rents, leases and existing and future improvements and fixtures (all called the "property").

PROPERTY ADDRESS: 5317 Mountain Park Circle, Helena, Alabama 35080
(Street) (City) (Zip Code)

LEGAL DESCRIPTION: Lot 6, according to the survey of Mountain Park, 3rd Sector, as recorded in Map Book 10 Page 13 in the office of the Judge of Probate of Shelby County, Alabama.

located in Shelby County, Alabama.

TITLE: I covenant and warrant title to the property, except for _____

SECURED DEBT: This mortgage secures repayment of the secured debt and the performance of the covenants and agreements contained in this mortgage and in any other document incorporated herein. Secured debt, as used in this mortgage, includes any amounts I owe you under this mortgage or under any instrument secured by this mortgage and all modifications, extensions and renewals thereof.

The secured debt is evidenced by (List all instruments and agreements secured by this mortgage and the dates thereof.):

- ☐ _____
- ☒ **Future Advances:** All amounts owed under the above agreement are secured even though not all amounts may yet be advanced. Future advances under the agreement are contemplated and will be secured and will have priority to the same extent as if made on the date this mortgage is executed.
- ☒ **Revolving credit loan agreement** dated 10/25/88. All amounts owed under this agreement are secured even though not all amounts may yet be advanced. Future advances under the agreement are contemplated and will be secured and will have priority to the same extent as if made on the date this mortgage is executed.

The above obligation is due and payable on 10/25/88 if not paid earlier.

The total unpaid balance secured by this mortgage at any one time shall not exceed a maximum principal amount of: Seventy Six Thousand and no/100 Dollars (\$ 76,000.00), plus interest, plus any disbursements made for the payment of taxes, special assessments, or insurance on the property, with interest on such disbursements.

- ☒ **Variable Rate:** The interest rate on the obligation secured by this mortgage may vary according to the terms of that obligation.
- ☒ A copy of the loan agreement containing the terms under which the interest rate may vary is attached to this mortgage and made a part hereof.

RIDERS: ☐ Commercial ☐ _____ ☐ _____

SIGNATURES: By signing below, I agree to the terms and covenants contained in this mortgage (including those on the reverse side which are hereby incorporated onto this side of this mortgage form) and in any riders described above signed by me.

Dale C. Smith (Seal) _____ (Seal)
Elizabeth H. Smith (Seal) _____ (Seal)

WITNESSES: _____

ACKNOWLEDGMENT: STATE OF ALABAMA, Shelby County ss:
I, Charles Andrew Thomure, a Notary Public in and for said county and in said state, hereby certify that

Dale C. Smith or Elizabeth H. Smith

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

Corporate ☐ whose name(s) as _____ of the _____ a corporation, _____ signed to the foregoing conveyance and who _____ known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, _____ he _____, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the _____ day of _____
My commission expires: _____
Charles Andrew Thomure
(Notary Public)

MY COMMISSION EXPIRES MARCH 5, 1991

COVENANTS

1. **Payments.** I agree to make all payments on the secured debt when due. Unless we agree otherwise, any payments you receive from me or for my benefit will be applied first to any amounts I owe you on the secured debt (exclusive of interest or principal), second, to interest and then to principal. If partial prepayment of the secured debt occurs for any reason, it will not reduce or excuse any scheduled payment until the secured debt is paid in full.

2. **Claims against Title.** I will pay all taxes, assessments, liens and encumbrances on the property when due and will defend title to the property against any claims which would impair the lien of this mortgage. You may require me to assign any rights, claims or defenses which I may have against parties who supply labor or materials to improve or maintain the property.

3. **Insurance.** I will keep the property insured under terms acceptable to you at my expense and for your benefit. All insurance policies shall include a standard mortgage clause in favor of you. You will be named as loss payee or as the insured on any such insurance policy. Any insurance proceeds may be applied, within your discretion, to either the restoration or repair of the damaged property or to the secured debt. If you require mortgage insurance, I agree to maintain such insurance for as long as you require.

4. **Property.** I will keep the property in good condition and make all repairs reasonably necessary.

5. **Expenses.** I agree to pay all your expenses, including reasonable attorneys' fees if I break any covenants in this mortgage or in any obligation secured by this mortgage. Attorneys' fees include those awarded by an appellate court. I will pay these amounts to you as provided in Covenant 10 of this mortgage.

6. **Default and Acceleration.** If I fail to make any payment when due or break any covenants under this mortgage, any prior mortgage or any obligation secured by this mortgage, you may accelerate the maturity of the secured debt and demand immediate payment and exercise any other remedy available to you. This mortgage gives you the power of sale, which you may also invoke under the circumstances described in the previous sentence. If you invoke the power of sale, you will give notice of the sale by publication once a week for three successive weeks in some newspaper published in the county in which the property or any portion of it is located. This notice will give the time, place and terms of the sale, and a description of the property. After this notice is given, the property will be sold to the highest bidder at public auction at the front door of the County Courthouse of the county in which the notice of sale was published.

7. **Assignment of Rents and Profits.** I assign to you the rents and profits of the property. Unless we have agreed otherwise in writing, I may collect and retain the rents as long as I am not in default. If I default, you, your agent, or a court appointed receiver may take possession and manage the property and collect the rents. Any rents you collect shall be applied first to the costs of managing the property, including court costs and attorneys' fees, commissions to rental agents, and any other necessary related expenses. The remaining amount of rents will then apply to payments on the secured debt as provided in Covenant 1.

8. **Waiver of Homestead.** I hereby waive all right of homestead exemption in the property.

9. **Leaseholds; Condominiums; Planned Unit Developments.** I agree to comply with the provisions of any lease if this mortgage is on a leasehold. If this mortgage is on a unit in a condominium or a planned unit development, I will perform all of my duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

10. **Authority of Mortgagee to Perform for Mortgagor.** If I fail to perform any of my duties under this mortgage, you may perform the duties or cause them to be performed. You may sign my name or pay any amount if necessary for performance. If any construction on the property is discontinued or not carried on in a reasonable manner, you may do whatever is necessary to protect your security interest in the property. This may include completing the construction.

Your failure to perform will not preclude you from exercising any of your other rights under the law or this mortgage.

Any amounts paid by you to protect your security interest will be secured by this mortgage. Such amounts will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect on the secured debt.

11. **Inspection.** You may enter the property to inspect if you give me notice beforehand. The notice must state the reasonable cause for your inspection.

12. **Condemnation.** I assign to you the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the property. Such proceeds will be applied as provided in Covenant 1. This assignment is subject to the terms of any prior security agreement.

13. **Waiver.** By exercising any remedy available to you, you do not give up your rights to later use any other remedy. By not exercising any remedy, if I default, you do not waive your right to later consider the event a default if it happens again.

14. **Joint and Several Liability; Co-signers; Successors and Assigns Bound.** All duties under this mortgage are joint and several. If I co-sign this mortgage but do not co-sign the underlying debt I do so only to mortgage my interest in the property under the terms of this mortgage. I also agree that you and any party to this mortgage may extend, modify or make any other changes in the terms of this mortgage or the secured debt without my consent. Such a change will not release me from the terms of this mortgage.

The duties and benefits of this mortgage shall bind and benefit the successors and assigns of either or both of us.

15. **Notice.** Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by certified mail addressed to me at the Property Address or any other address that I tell you. I will give any notice to you by certified mail to your address on the front side of this mortgage, or to any other address which you have designated.

Any notice shall be deemed to have been given to either of us when given in the manner stated above.

16. **Transfer of the Property or a Beneficial Interest in the Mortgagor.** If all or any part of the property or any interest in it is sold or transferred without your prior written consent, you may demand immediate payment of the secured debt. You may also demand immediate payment if the mortgagor is not a natural person and a beneficial interest in the mortgagor is sold or transferred. However, you may not demand payment in the above situations if it is prohibited by federal law as of the date of this mortgage.

17. **Release.** When I have paid the secured debt in full and all underlying agreements have been terminated, this mortgage will become null and void and you will release this mortgage.

BOOK 212 PAGE 871

Dale C. Smith and
Elizabeth H. Smith
5317 Mountain Park Circle
Helena, Alabama 35080

JEFFERSON FEDERAL SAVINGS
& LOAN ASSOCIATION
215 NORTH 21ST STREET
BIRMINGHAM, ALABAMA 35203

Borrower's Name and Address
"You" means each borrower above, jointly and severally.

Lender's Name and Address
"We" or "us" means the lender named above.

No. 00-350901148	Minimum Advance \$ 500.00	Triggering Balance \$ N/A
Date October 25 19 88	Payment Date: 10th day	Billing Cycle: Ends 25th day
Trans. Acct. #	of every month	or every month
Line of Credit \$ 76,000.00		

OPEN-END CREDIT PLAN

GENERALLY When we use the term "loan account balance" in this agreement, we mean the sum of the unpaid principal of loans made under this plan, plus unpaid finance charges which have accrued, plus credit insurance premiums which are due. The term "transaction account" means the account you have with us, the account number of which is listed at the top of the form on the line labeled "Trans. Acct. #". The term "Line of Credit" means the maximum amount we will ordinarily allow the unpaid principal of your loan account balance to be at any one time.

If any term in this agreement violates any law or for some other reason is not enforceable, that term will not be a part of this agreement. The other terms in this agreement will remain effective, however. This agreement is subject to the laws of the state where we are located.

REQUESTING A LOAN You request a loan under this plan whenever you:

- request in person that you be advanced directly an amount at least as large as the minimum advance listed above.
- write a check for at least the minimum advance listed above using one of the special checks you have for that purpose.

HOW FINANCE CHARGES ARE COMPUTED Finance charges begin to accrue immediately when we make a loan to you. To figure the finance charge, we will apply a periodic rate or rates each billing cycle to the "average daily balance" of your loan account for the billing cycle. The "average daily balance" is computed as follows: First, we take your loan account balance at the beginning of the day and subtract any unpaid finance charges and credit insurance premiums that are due. Next, we subtract the portion of any payments or credits received that day which apply to the repayment of your loans. (A portion of each payment you make is applied to finance charges and credit insurance premiums.) Then we add any new loans made that day. This gives us the daily balance. Then we add up all the daily balances for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the "average daily balance."

We will apply a periodic rate of **FINANCE CHARGE** of 1.00% each billing cycle (equal to an **ANNUAL PERCENTAGE RATE** of 12.00%) to the first \$750.00 of your average daily balance. We will apply a periodic rate of **FINANCE CHARGE** of 1.00% per billing cycle (equal to an **ANNUAL PERCENTAGE RATE** of 12.00%) to the portion of your average daily balance which exceeds \$750.00.

VARIABLE RATE The annual percentage rate may change, and will always be two percent above the following "base rate": Chase Manhattan Bank Prime Rate (NEVER TO EXCEED 15%)

The annual percentage rate may increase if this "base rate" increases. An increase will take effect when chase prime changes. An increase will result in an increase in the finance charge and it may have the effect of increasing your periodic minimum payment. The annual percentage rate will not increase more often than once a billing cycle. A decrease will have the opposite effect of an increase disclosed above.

If the base rate changes more frequently than the annual percentage rate, we will always use the base rate in effect on the day we adjust the annual percentage rate to determine the new annual percentage rate. In such a case, we will ignore any changes in the base rate that occur between annual percentage rate adjustments.

The annual percentage rate will not at any time exceed the highest allowable rate for this type of agreement as determined by applicable state or federal law.

☐ **HOW YOU REPAY YOUR LOANS:** You agree to pay the amount you owe under this agreement in the following manner:

The amounts you pay will first reduce the amounts owed (if any) for credit insurance, then will reduce the finance charges, and finally will reduce the amount of unpaid loans.

☒ **HOW YOU REPAY YOUR LOANS** On or before each payment date (see top of form) you must make a minimum payment to reduce your debt. The minimum amount is 2.0% of your loan account balance on the last day of the billing cycle or \$ 100.00 whichever is greater. If your loan account balance on a payment date is less than the minimum amount, you must pay only the amount of your loan account balance.

If you fail to make a payment, we may, but are not required to, advance money to you to make the payment. All the terms of this agreement would apply to such a loan.

You can pay off all or any part of what you owe at any time. However, so long as you owe any amount you must continue to make your periodic minimum payment.

The amounts you pay will first reduce the amount owed (if any) for credit insurance, then will reduce the finance charges, and finally will reduce the amount of unpaid loans.

SECURITY To secure the payment of what you owe, we have the right of set-off. This means we can pay the amount you owe us out of money that we are required to pay you (such as money in your savings or checking account). However, we cannot use in this way money in your IRA or other tax-deferred retirement account. State law may further limit our right of set-off.

However, we will have no right of set-off against your loan account balance if you can obtain credit under this plan by using a debit or a credit card.

We have also secured your obligations under this plan by taking a security interest (by way of a separate security agreement, mortgage or other instrument dated OCTOBER 25 19 88) in the following property, described by item or type: Lot 6, according to the survey of Mountain Park, 3rd sector, as recorded in Map Book 10 Page 13 in the office of Judge of Probate of Shelby County, Alabama

☐ If checked, collateral securing other loans you have with us may also secure loans under this agreement.

Filing fees \$

You may buy property insurance from anyone you want who is acceptable to us, or you may provide the insurance through an existing policy. If you buy the insurance from or through us, your premium will be

	Type	Rate
<input type="checkbox"/> CREDIT INSURANCE Credit life insurance and credit disability insurance are not required to obtain credit. We will provide no coverage unless you sign and agree to pay the additional cost. The rates listed to the right are applied to determine the premium you owe for	You <input type="checkbox"/> do <input type="checkbox"/> do not want credit life	
	You <input type="checkbox"/> do <input type="checkbox"/> do not want credit disability	
	You <input type="checkbox"/> do <input type="checkbox"/> do not want	

X X

CHANGING THE TERMS OF THIS AGREEMENT We reserve the right to change any term in this agreement. However, no change will be effective until at least 15 days after we send written notice to you of the change. We will send the notice to your address listed above. (You should inform us of any change in address.)

This agreement can be ended by you or by us at any time, upon giving notice. However, you still must pay all you owe under this agreement even if it is ended.

ADDITIONAL FEES You agree to pay an additional fee of \$ 40.00 per year in order to participate in this plan. We will add this amount to your loan account balance on an annual basis.

The following closing costs:

BOOK 212 PAGE 872

☐ appraisal fee \$
☒ title search fee \$ 22.50
☒ documentation fees \$ 11.00
☒ official fees \$ 11.00
☐ taxes \$

☐ credit report fees \$
☐ property survey \$
☐ title insurance \$
☐ (other)

ATTORNEY'S FEES: If you default on this agreement and if we are required to hire a lawyer to collect what you owe under this agreement, you agree to pay our reasonable attorney's fees not exceeding 15% of the unpaid debt after default. However, if the unpaid debt does not exceed \$300.00, you do not agree to pay our reasonable attorney's fees.

NOTICE: See the reverse side for additional terms and for information about your rights in the event of a billing error.

SIGNATURES: By signing below, you agree to the terms on both sides of this agreement and you promise to pay any amounts you owe under this agreement. You also state that you received a completed copy of the agreement on today's date.

CAUTION - IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT.

By: [Signature]

Signature [Signature]

Signature

ADDITIONAL TERMS

DEFAULT: You will be in default on this agreement if any of the following occur: (a) you fail to make a payment when due; (b) you don't comply with any duty you have under this agreement or any agreement securing this agreement; (c) you die; (d) we reasonably feel we will have difficulty collecting what you owe under this agreement or any other agreement you have with us.

REMEDIES: We may do any or all of the following if you are in default: (a) we may require you to immediately pay all amounts you owe us under this agreement; (b) we may deny any request for credit which you have made but which we have not yet granted; (c) we may use our right of set-off unless prohibited; (d) we may use any remedy provided by state or federal law; and (e) we may use any remedy provided in any agreement which secures loans under this agreement.

Even if we choose not to use one of our remedies when you default, we can still use that remedy if you default again. If we do not use a remedy when you default, we can still consider your action as a default in the future.

CREDIT INFORMATION: You agree to supply us with whatever information we reasonably feel we need to decide whether to continue this plan. We agree to make requests for this information without undue frequency, and to give you reasonable time in which to supply the information. You authorize us to make or have made any credit inquiries we feel are necessary. You also authorize the persons or agencies to whom we make these inquiries to supply us with the information we request.

YOUR BILLING RIGHTS
KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

Notify Us In Case of Errors or Questions About Your Bill

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us at the address listed on your bill. Write to us as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If you have authorized us to pay your credit card bill automatically from your savings or checking account, you can stop the payment on any amount you think is wrong. To stop the payment your letter must reach us three business days before the automatic payment is scheduled to occur.

Your Rights and Our Responsibilities
After We Receive Your Written Notice

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay, we must tell anyone we report you to that you have a question about your bill. And, we must tell you the name of any one we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first \$50 of the questioned amount, even if your bill was correct.

Special Rule for Credit Card Purchases

If you have a problem with the quality of property or services that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the property or services. There are two limitations on this right:

- (a) You must have made the purchase in your home state or, if not within your home state within 100 miles of your current mailing address; and
- (b) The purchase price must have been more than \$50.

These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

LIABILITY FOR UNAUTHORIZED
USE OF A CREDIT CARD

You may be liable for the unauthorized use of your credit card. You will not be liable for unauthorized use that occurs after you notify us at the address on the other side of this form, orally or in writing, of the loss, theft, or possible unauthorized use. In any case, your liability will not exceed \$50.

FORM OCP-1 BACKSIDE REVISION DATE 11/12/85
BS 1

BOOK 212 PAGE 873

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

88 NOV -8 AM 9: 54

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

1. Dead Tax \$ _____
2. Mtg. Tax 114.00
3. Recording Fee 10.00
4. Indexing Fee 1.00
TOTAL 125.00