

698

FIRST NATIONAL BANK OF COLUMBIANA

Post Office Box 977
Columbiana, Alabama 35051ADJUSTABLE RATE LINE OF CREDIT
MORTGAGE

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 INCREASED MINIMUM MONTHLY PAYMENTS AND INCREASED FINANCE CHARGES. DECREASES IN THE ANNUAL PERCENTAGE RATE MAY RESULT IN LOWER MINIMUM MONTHLY PAYMENTS AND LOWER FINANCE CHARGES.

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

I. This Adjustable Rate Mortgage made this 4th day of February, 1992, by and between Kerry R. Nivens and wife, Gloria A. Nivens (hereinafter collectively referred to as "Mortgagor" whether singular or plural), whose address is _____

119 Pinetree Circle Columbiana, Al 35051, and THE FIRST NATIONAL BANK OF COLUMBIANA, a National Banking Corporation (hereinafter referred to as "Mortgagee"), whose address is Post Office Box 977, Columbiana, Alabama 35051.

Secured Line of Credit

Mortgagor is giving Mortgagee this Adjustable Rate Line of Credit Mortgage in order to secure the indebtedness to Mortgagee, in the maximum principal sum of Fifty Thousand and no/100 (\$50,000.00) Dollars, (the "Credit Limit") which is evidenced by a Home Equity Line of Credit Agreement (hereinafter referred to as "Credit Agreement"), of even date herewith and any renewals and extensions thereof with interest thereon. The Credit Agreement provides for an open-end line of credit under which Mortgagor may borrow and repay, and reborrow and repay, amounts from the Mortgagee up to a maximum principal amount at any one time outstanding not to exceed the Credit Limit.

The indebtedness secured by this mortgage shall include all advances made by the Mortgagee to the Mortgagor under the Credit Agreement, all finance charges payable on advances, all other fees and charges payable under the Credit Agreement, and all advances made by the Mortgagee under this Mortgage.

II. In consideration of the mutual promises herein contained Mortgagor does hereby grant and convey to Mortgagee, and its successors and assigns with power of sale, the property ("Property") described below.

(A) The real estate ("Real Estate") located at 119 Pinetree Circle

Columbiana, Alabama 35051 in Shelby County, Alabama, to wit:

Lot 18, according to Briarwood Subdivision, First Sector, as shown by Map Book 5 page 23 as recorded in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Gloria A. Nivens is one and the same as Gloria J. Nivens

- (B) All building, structures and other improvements that are located on the Real Estate;
- (C) All other property rights that Mortgagor has as owner of the Real Estate. These rights are known as "easements, rights and appurtenances attached to the Property;"
- (D) All rents or royalties from the Real Estate;
- (E) All mineral, oil and gas rights and profits, water rights and water stock that are part of the Real Estate that Mortgagor may now or in the future acquire;
- (F) All rights of Mortgagor in the land which lies in the streets or roads in front of, or next to, the Real Estate;
- (G) All fixtures on the Real Estate and paragraph (B) of this section;
- (H) All property, improvements and rights described in paragraphs (B) through (F) of this section that Mortgagor may acquire in the future, and;
- (I) All replacements of or additions to the property described in paragraphs (B) through (F) and paragraph (H) of this section, and
- (J) All replacements of or additions to the fixtures that are on the Real Estate and the improvements described in paragraph (B) of this section.

TO HAVE AND TO HOLD the same and every part thereon unto the Mortgagee, its successors and assigns forever.

III.

(A) Rate and Payment Changes.

The Credit Agreement provides for finance charges to be computed on the unpaid balance outstanding from time to time under the Credit Agreement at an adjustable annual percentage rate. The annual percentage rate may be increased or decreased on the first day of each billing cycle based on changes in the "Prime Rate" as published in the Wall Street Journal. The annual percentage rate charged under the Credit Agreement during each billing cycle will be 1.50 % above the Prime Rate in effect on the first day of that billing cycle. The annual percentage rate on the date of this mortgage is 8.00 %. The annual percentage rate will increase if the Prime Rate in effect on the first day of a billing cycle increases, and will decrease if the Prime Rate in effect on the first day of a billing cycle decreases.

✓ J. A. B. C.

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cycle decreases; however, the annual percentage rate will never exceed the Maximum Rate stated in the Credit Agreement. Any increase in the annual percentage rate may result in increased finance charges and increased minimum payment amounts under the Credit Agreement. Any decrease in the annual percentage rate may result in lower finance charges and lower minimum monthly payments.

(B) Maturity Date

If not sooner terminated as set forth therein, the Credit Agreement will terminate twenty years from the date of the Credit Agreement, and all sums payable thereunder (including without limitation principal, interest, expenses and charges) shall become due and payable in full.

(C) Mortgage Tax

This mortgage secures open-end or revolving indebtedness with an interest in residential real property. Therefore, under §40-22-2(1)b, Code of Alabama 1975, as amended, the mortgage filing privilege tax shall not exceed \$.15 for each \$100, or fraction thereof, of the Credit Limit of \$50,000.00 which is the maximum principal indebtedness, to be secured by this mortgage at any one time. Although the interest rate payable on the line of credit may increase if the Prime Rate in effect on the first day of a billing cycle increases, the increased finance charges that may result are payable monthly under the Credit Agreement and there is no provision for negative amortization, capitalization of unpaid finance charges or other increases in the principal amount secured hereby over and above the Credit Limit. Therefore, the principal amount secured will never exceed the Credit Limit unless an appropriate amendment hereto is duly recorded and any additional mortgage tax due on the increased principal amount paid at the time of such recording.

IV.

1. Mortgagor may exercise all rights contained herein if Mortgagor does not:

(A) Well and truly pay and discharge every indebtedness hereby secured as it shall become due and payable, any renewal or extensions thereon, and any other notes or obligations of Mortgagor to Mortgagee whether now or hereafter incurred;

(B) Eventually pay, with interest, any amounts that Mortgagee spends under this Adjustable Rate Line of Credit Mortgage to protect the value of the Property and its rights in the Property; and

(C) Keep all promises and agreements under this Adjustable Rate Line of Credit Mortgage.

Mortgagor warrants and represents that except for the "exceptions" listed in any title insurance policy which insures Mortgagee's rights in the Property:

(A) Mortgagor lawfully owns the Property;

(B) Mortgagor has the right to mortgage and convey that Property to Mortgagee; and

(C) There are no outstanding claims or charges against the Property.

2. Mortgagor hereby gives Mortgagee a general warranty of title. This means that Mortgagor will be fully responsible for any losses which Mortgagee suffers because someone other than Mortgagee has some of the rights in the Property which Mortgagor promises that Mortgagor has. Further, Mortgagor promises that Mortgagor will defend Mortgagee's ownership of the Property against any claims of such rights.

3. The Credit Agreement does not require that the Mortgagor make any minimum initial advance or maintain any minimum balance under the line of credit; therefore, at times there may be no outstanding indebtedness under this mortgage. However, this mortgage shall become effective immediately notwithstanding the lack of any initial advance and shall not be deemed satisfied nor shall title to the Real Estate be divested from the Mortgagee by the payment in full of all the indebtedness at any one time outstanding, since in each case further borrowings can thereafter be made from time to time by the Mortgagor under the terms of the Credit Agreement and all such borrowings are to be included in the indebtedness secured hereby. This mortgage shall continue in effect until all of the indebtedness shall have been paid in full, the Credit Agreement shall have been terminated, the Mortgagee shall have no obligation to extend any further credit to the Mortgagor thereunder and an appropriate written instrument in satisfaction of this mortgage, executed by a duly authorized officer of the Mortgagee, shall have been duly recorded in the probate office in which this mortgage is originally recorded. The Mortgagee agrees to execute such an instrument promptly following receipt of the Mortgagor's written request therefor, provided that all of the conditions set forth above have been fulfilled. Nothing contained herein shall be construed as providing that this Mortgage shall secure any advances by the Mortgagee to the Mortgagor under the Credit Agreement in a maximum principal amount at any one time outstanding in excess of the Credit Limit set forth above unless this mortgage shall have been amended to increase the Credit Limit by written instrument duly recorded in the probate office in which this mortgage is originally recorded.

4. (Complete if applicable:) This mortgage is junior and subordinate to that certain mortgage dated _____, 19____, and recorded in volume _____, page _____ in the Probate Office of _____ County, Alabama.

The Mortgagor hereby authorizes the holder of a prior mortgage encumbering the Real Estate, 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. If this mortgage is subordinate to a prior mortgage, the Mortgagor expressly agrees that if default should be made in the payment of principal, interest or any other sum payable under the terms and provisions of such prior mortgage or if any other event of default (or event which upon the giving of notice or lapse of time, or both, would constitute an event of default) should occur thereunder, the Mortgagee may, but shall not be obligated to, cure such default, without notice to anyone, by paying whatever amounts may be due, or taking whatever other actions may be required, under the terms of such prior mortgage so as to put the same in good standing.

V. For the purposes of further securing the payment of the indebtedness, Mortgagor hereby warrants, covenants, and agrees with Mortgagee, its successors and assigns, as follows:

1. Payment of Taxes; Disclosure of Liens; Inferior Liens.

Mortgagor shall pay all taxes, assessments, water rents and other governmental charges levied upon the premises, in a timely fashion. If Mortgagor defaults in the payment of Mortgagor's taxes and other charges, Mortgagee may, at its option, pay the taxes and other charges, and such payments shall be a lien on the Property and added to the amount of the Mortgagor's debt to Mortgagee secured by this Adjustable Rate Line of Credit Mortgage.

Mortgagor agrees to pay or satisfy all liens against the Property that may be superior to the Adjustable Rate Line of Credit Mortgage, other than a mortgage described in paragraph IV 4 above.

However, Mortgagor does not have to satisfy a superior lien if:

(A) Mortgagor agrees, in writing, to pay the obligation which gave rise to the superior lien and Mortgagee approves the way in which Mortgagor agrees to pay that obligation;

(B) Mortgagor, in good faith, argues or defends against the superior lien in a lawsuit so that, during that lawsuit, the superior lien may not be enforced and no part of the Property may be given up; or

(C) Mortgagor obtains from the holder of such lien an agreement which subordinates, i.e. gives Mortgagee priority over, the competing lien.

Mortgages may terminate and accelerate the indebtedness in the event that a lien is placed against the property securing mortgagor's indebtedness above, which would adversely affect mortgagee's rights in the property, i.e., the foreclosure of mortgagee's lien or the seizure of the property by any Federal or State agent.

2. Insurance

Mortgagor agrees that Mortgagor will keep the building erected or to be erected on the Property insured against the loss or damage by fire, and such other hazards as may be specified by Mortgagee, for the benefit of Mortgagee, and by insurers and in amounts approved by Mortgagee. Mortgagor also agrees to deliver such insurance policy or policies to Mortgagee, and have attached thereto loss payable clauses in favor of and in a form acceptable to Mortgagee. The fire insurance policy shall contain the usual extended coverage endorsement.

If Mortgagor fails to obtain such insurance, Mortgagee may, at its option, obtain such insurance, and the premium therefor shall be a lien on the Property and added to the amount of Mortgagor's obligations secured by this Adjustable Rate Line of Credit Mortgage. In the case of a loss, any insurance proceeds payable to Mortgagor and/or Mortgagee are, to the extent of Mortgagor's interest, hereby assigned to Mortgagee. Mortgagee may use such proceeds to preserve and protect its rights under this Adjustable Rate Line of Credit Mortgage and the Credit Agreement, or to secure repayment of the indebtedness or to rebuild or restore the damaged buildings or improvements, as it deems best. Further, Mortgagee shall have the absolute right to settle and compromise all claims under any policies of insurance.

3. Mortgagor's Agreement to Maintain the Property

Mortgagor agrees to keep the Property in good repair. Mortgagor will not destroy, damage or substantially change the Property, and Mortgagor will not allow the Property to deteriorate.

4. Mortgagee's Right to Protect the Property

If (A) Mortgagor does not keep Mortgagor's promises and agreements made in this Adjustable Rate Line of Credit Mortgage, or (B) someone, including Mortgagor, begins a legal proceeding that may significantly affect Mortgagee's rights in the Property (such as, for example, a proceeding in bankruptcy, in probate for condemnation, or to enforce laws or regulations), then Mortgagee may do and pay for whatever is necessary to protect the value of the Property and Mortgagee's rights in the Property. Mortgagee's actions under this paragraph may include, for example, appearing in court, paying reasonable attorney's fees, and entering the Property to make repairs. Mortgagee may give Mortgagor notice before Mortgagee will take any of these actions.

Mortgagor must pay to Mortgagee any amounts, with interest, which Mortgagee spends under this paragraph. This Adjustable Rate Line of Credit Mortgage will protect Mortgagee in case Mortgagor does not keep the promise to pay those amounts with interest.

Mortgagor must pay all amounts due to Mortgagee when Mortgagee sends Mortgagor a notice requesting that Mortgagor do so. Mortgagor will also pay interest on those amounts at the same rate stated in the Credit Agreement. However, if payment of interest at that rate would violate the law, Mortgagor will pay interest on the amounts spent by Mortgagee under this paragraph at the highest rate that the law allows. Interest on each amount will begin on the date that the amount is spent by Mortgagee. However, Mortgagor and Mortgagee may agree in writing to terms of payment that are different from those in this paragraph.

Any amounts Mortgagee disburses pursuant to this paragraph with interest thereon, shall become additional indebtedness of Mortgagor secured by this Adjustable Rate Line of Credit Mortgage.

Although Mortgagee may take action under this paragraph, Mortgagee does not have to do so and any failure to act shall not be considered a waiver of any rights the Mortgagee has.

5. Condemnation

A taking of Property by any governmental authority by eminent domain is known as "condemnation." Upon such condemnation, Mortgagor hereby gives to Mortgagee the Mortgagor's right:

(A) To proceeds of all awards or claims for damages resulting from condemnation or other governmental taking of the Property; and

(B) To proceeds from a sale of the Property that is made to avoid condemnation. All of those proceeds are to be paid to Mortgagee.

If all of the Property is taken, the proceeds will be used to reduce the amount that Mortgagor owes to Mortgagee under the Credit Agreement and this Adjustable Rate Line of Credit Mortgage. If any of the proceeds remain after the amount that Mortgagor owes to Mortgagee has been paid in full, the remaining proceeds will be paid to Mortgagor. Unless Mortgagor and Mortgagee agree otherwise in writing, if only a part of the Property taken, the amount that Mortgagor owes Mortgagee will only be reduced by the amount of proceeds, multiplied by the following amount:

i. The total amount the Mortgagor owes to Mortgagee under the Credit Agreement and this Adjustable Rate Line of Credit Mortgage immediately before the taking, and divided by

ii. The fair market value of the Property immediately before the taking. The remainder of the proceeds will be paid to Mortgagor. The use of proceeds to reduce the amount that Mortgagor owes Mortgagee will not be a prepayment that is subject to the prepayment charge provisions, if any, under the Credit Agreement.

If Mortgagor abandons the Property, or if Mortgagor does not answer within thirty days a notice from Mortgagee stating that a governmental authority has offered to make a payment or to settle a claim for damages, then Mortgagor hereby grants Mortgagee the authority to collect the proceeds. Mortgagee may then use the proceeds to repair or restore the Property or to reduce the amount that Mortgagor owes to Mortgagee under the Credit Agreement and this Adjustable Rate Line of Credit Mortgage. The thirty day period will begin on the date the notice is delivered.

6. Our Right of Inspection

Mortgagee, and others authorized by Mortgagee, may enter and inspect the Property. Mortgagee must do so in a reasonable manner and at a reasonable time. However, before one of the inspections is made, Mortgagee must give Mortgagor reasonable notice stating a reasonable purpose for the inspection. That purpose must be related to Mortgagee's rights in the Property.

7. Mortgagee's Successors

Any person who takes over Mortgagee's rights or obligations under this Adjustable Rate Line of Credit Mortgage and the Credit Agreement will have all of Mortgagee's rights and will be obligated to keep all of Mortgagee's agreements made in this Adjustable Rate Mortgage and the Credit Agreement.

8. Joint Obligation

If more than one person signs this Adjustable Rate Line of Credit Mortgage as Mortgagor, all are fully obligated to keep all of Mortgagor's promises and obligations contained in this Adjustable Rate Line of Credit Mortgage. Mortgagee may enforce its rights under this Adjustable Rate Mortgage against Mortgagors individually or against all of Mortgagors together. This means that any one of the Mortgagors may be required to pay all amounts owed under the Credit Agreement and under this Adjustable Rate Line of Credit Mortgage. However, if one Mortgagor does not sign the Credit Agreement then:

(A) That person is signing this Adjustable Rate Line of Credit Mortgage only to convey his or her rights in the property to Mortgagee under the terms of this Adjustable Rate Line of Credit Mortgage.

(B) He or she is not personally obligated to make payments or to act under the Credit Agreement or under this Adjustable Rate Line of Credit Mortgage; and

(C) He or she agrees that Mortgagee and any borrower under the Credit Agreement may agree to extend, modify, forbear or make any other accommodations with regard to the terms of this Adjustable Rate Line of Credit Mortgage or the Credit Agreement without his or her consent and without releasing the cosigner or modifying this Adjustable Rate Line of Credit Mortgage as to the cosigner's interest in the Property.

The captions and titles of this Adjustable Rate Line of Credit Mortgage are for convenience only. They may not be used to interpret or to define the terms of this Adjustable Rate Line of Credit Mortgage.

9. Continuation of Mortgagee's Rights

Even if Mortgagee does not exercise or enforce any of its rights under this Adjustable Rate Line of Credit Mortgage, the Credit Agreement or under the law, Mortgagee will still have all of those rights and may exercise them and enforce them in the future. Even if Mortgagee obtains insurance, pays taxes, or pays other claims, charges or liens against the Property, Mortgagee will still have the right to demand that Mortgagor make immediate payment in full of the amount that Mortgagor owes Mortgagee under the Credit Agreement and under this Adjustable Rate Line of Credit Mortgage.

10. Mortgagee's Rights of Enforcement

Each of Mortgagee's rights under this Adjustable Rate Line of Credit Mortgage and the Credit Agreement is separate. Mortgagee may exercise and enforce one or more of these rights, as well as any of Mortgagee's other rights under the law, one at a time or all at once.

11. Agreement Concerning Notices

Unless the law requires otherwise, any notice that must be given to Mortgagor under this Adjustable Rate Line of Credit Mortgage will be given by delivering it or by mailing it addressed to Mortgagor at the address stated in Section 1 above. A notice will be delivered or mailed to Mortgagor at a different address if Mortgagor gives Mortgagee notice of Mortgagor's change of address. Any notice that must be given to Mortgagee under this Mortgage will be given by mailing such notice to Mortgagee's address stated above. A notice should be mailed to Mortgagee at a different address if Mortgagee gives Mortgagor notice of the different address. A notice required by this Adjustable Rate Line of Credit Mortgage is given when it is mailed or when it is delivered according to the requirements of this paragraph.

12. Agreement is Enforceable

If any terms of this Adjustable Rate Line of Credit Mortgage or of the Credit Agreement conflict with any provisions of law, all other terms of this Adjustable Rate Line of Credit Mortgage and of the Credit Agreement will still remain in effect if they can be given effect without the conflicting term. This means that any terms of the Adjustable Rate Line of Credit Mortgage and of the Credit Agreement which conflict with the law can be separated from the remaining terms, and the remaining terms will still be enforced.

13. Mortgagor's Copy of the Credit Agreement and of this Adjustable Rate Line of Credit Mortgage

Mortgagor will be given a copy of the Credit Agreement and of this Adjustable Rate Line of Credit Mortgage. Those copies must show that the original Credit Agreement and Adjustable Rate Line of Credit Mortgage have been signed. Mortgagor will be given those copies either when Mortgagor signs the Credit Agreement and this Adjustable Rate Line of Credit Mortgage or after this Adjustable Rate Line of Credit Mortgage has been recorded in the proper official records.

14. Transfer of the Property

If Mortgagor sells all or any part of the Property, or if an interest herein is sold or transferred without Mortgagee's prior written consent, then Mortgagee may, at its option, declare all the sums secured by the Adjustable Rate Line of Credit Mortgage to be immediately due and payable. However, this option may not be exercised by Mortgagee if in so doing Mortgagee would violate any applicable law.

If Mortgagee exercises such an option to accelerate, Mortgagee shall mail notice of the acceleration to Mortgagor in accordance with this Adjustable Rate Line of Credit Mortgage. Such notice shall provide a period of not less than thirty days from the date the notice is mailed within which Mortgagor may pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may, without further notice or demand on Mortgagor, invoke any remedies permitted by this Adjustable Rate Line of Credit Mortgage. The foregoing notwithstanding, Mortgagee may begin immediate proceedings to protect its interest in the Property.

15. Mortgagor's Default

In the event that (a) default is made in the payment of any indebtedness due under the terms of this Adjustable Rate Line of Credit Mortgage or the Credit Agreement, or any part thereof, or any other indebtedness, obligation or liability of the Borrower, if the Borrower is not the Mortgagor, the Mortgagor, or any of them to the Mortgagee remains unpaid at maturity, whether by acceleration or otherwise; (b) the interest of the Mortgagee in the property securing the indebtedness is adversely affected by reason of the enforcement of any lien or encumbrance thereon; or (c) any event of default occurs under the Credit Agreement which would permit the Mortgagee to terminate the Credit Agreement and accelerate the balance due thereunder; then, upon the happening of any one or more of said events, at the option of the Mortgagee, the unpaid balance of the indebtedness 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 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 reasonable attorney's fees; second, to the payment in full of the balance of the indebtedness in whatever order and amounts the Mortgagee may elect, 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; third, to the payment of any amounts that have been spent, or that it may then be necessary to spend in paying insurance premiums, liens, any prior mortgages or other encumbrances related to the Real Estate, with interest thereon; and fourth, the balance, if any, to be paid to the 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 in any other manner or it may be offered for sale and sold in any other manner the Mortgagee may elect. Mortgagee authorizes Mortgagee or its designated agent to give a deed conveying the property to the highest bidder.

16. Remedies

If a Mortgagor is in default, as provided in paragraph 15 above, Mortgagee has the right to, among other things, demand repayment of the entire indebtedness, including all principal, interest and other charges. Further, Mortgagee can set-off this debt against any right of Mortgagor to payment of money from Mortgagee. Mortgagor has all rights as contained in the Credit Agreement. The exercise of any right or remedy available to Mortgagee may be delayed without such delay being considered a waiver. Further, should Mortgagee not exercise any of its rights upon Mortgagor's default, Mortgagee has not waived its rights in the event of a later default.

17. Mortgagee's Right to Rental Payments and Possession

As additional protection for Mortgagee, Mortgagor hereby grants to Mortgagee all of

Mortgagor's rights to any rental payments from the Property. However, until Mortgagee requires immediate payment in full, or until Mortgagor abandons the Property, Mortgagor has the right to collect and keep those rental payments as they become due. Mortgagor hereby agrees that Mortgagor has not given any of Mortgagor's rights to rental payments from the Property to anyone else, and Mortgagor will not do so without Mortgagee's consent in writing.

If Mortgagee requires immediate payment in full, or if Mortgagor abandons the Property, then Mortgagee, persons authorized by Mortgagee, or a receiver appointed by a court at Mortgagee's request may:

(A) Collect the rental payments, including overdue rental payments directly from the tenants;

(B) Enter on and take possession of the Property;

(C) Damage the Property; and

(D) Sign, cancel and change leases. Mortgagor agrees that if Mortgagee notifies the tenants that Mortgagee has the right to collect rental payments directly from them under this paragraph, then the tenants may make those rental payments to Mortgagee without having to ask whether Mortgagor has failed to keep Mortgagor's promises and agreements under this Adjustable Rate Line of Credit Mortgage.

If there is a judgment in favor of Mortgagee in a lawsuit for foreclosure and sale, Mortgagor will pay Mortgagee reasonable rent from the date the judgment is entered for as long as Mortgagor occupies the Property. The foregoing notwithstanding, Mortgagor does not have the right to be a tenant on the Property.

All rental payments collected by Mortgagee or by a receiver, other than the rent paid by Mortgagee under this paragraph, will be used first to pay the costs of collecting rental payments and of managing the Property. If any part of the rental payments remain after those costs have been paid in full, the remaining part will be used to reduce the amount Mortgagor owes to Mortgagee under the Credit Agreement and under this Adjustable Rate Line of Credit Mortgage. The cost of managing the Property may include the receiver's fees, reasonable attorney's fees, and the cost of any necessary bonds. Mortgagee and the receiver will be obligated to account only for those rental payments that Mortgagee actually receives.

18. Discharge and Release

When Mortgagee has been paid all amounts due under the Credit Agreement and under this Adjustable Rate Line of Credit Mortgage, Mortgagee will discharge this Adjustable Rate Line of Credit Mortgage by delivering a certificate or notation that this Adjustable Rate Line of Credit Mortgage has been satisfied. Mortgagor will not be required to pay Mortgagee for the discharge, but Mortgagor will pay all costs of recording the discharge in the proper official records.

19. Entire Agreement

This Adjustable Rate Line of Credit Mortgage and the Credit Agreement constitute the entire agreement between the parties as of the date of execution.

20. Submission to Jurisdiction

The Mortgagor irrevocably submits to the jurisdiction of each state or federal court sitting in Shelby County, Alabama (the "Courts") over any suit, action, or proceeding arising out of or relating to this Mortgage; and further, waives any objection that the Mortgagor may now or hereafter have based on improper venue, lack of jurisdiction, inconvenience or forum, in any action brought in any of the Courts.

21. Waiver of Jury Trial

The Mortgagor, the Guarantor, the Mortgagee, or a beneficiary or successor, or any of them, do each hereby waive all rights to a trial by jury in any suit, action, or proceeding relating to any transaction, grievance, or claim under this Mortgage, including the Loan Documents. This waiver is knowingly, voluntarily and intentionally being entered into and is part of the consideration and inducement of the parties entering into this Mortgage and the making of the Credit Agreement.

22. Maximum Credit Charges

Mortgagor has agreed, according to the terms set forth in the Credit Agreement, to pay charges on credit extended to Mortgagor. If this credit is subject to law which sets a maximum charge, and this law as interpreted so that the interest or other credit charges which Mortgagee imposes exceed permitted limits, then:

(A) Any such charge in violation of the law, as interpreted, will be reduced by whatever amount is necessary to bring the charge within permissible limits; and

(B) Any sums which Mortgagor has paid Mortgagee in excess of the legal limit will be refunded to Mortgagor. Such refund may be made by reducing the balance owed under the Credit Agreement or by making a direct payment to Mortgagor.

By signing this Adjustable Rate Line of Credit Mortgage, Mortgagor agrees that Mortgagor has read the foregoing and agrees to all provisions set out in this Adjustable Rate Line of Credit Mortgage.

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

Kerry R. Nivens [SEAL]
Kerry R. Nivens

Gloria A. Nivens [SEAL]
Gloria A. Nivens

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ACKNOWLEDGEMENT FOR INDIVIDUAL(S)

STATE OF ALABAMA

Shelby COUNTY

I, the undersigned authority, a Notary Public, in and for said county in said State, hereby certify that Kerry R. Nivens and wife, Gloria A. Nivens 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 to he Y executed the same voluntarily on the date the same bears date.

Given under my hand and official seal, this 4th day of February, 1992.

Judy R. Davis
Notary Public

7-3-94
My Commission Expires

ACKNOWLEDGEMENT FOR CORPORATION

STATE OF ALABAMA

_____ COUNTY

I, the undersigned authority, A Notary Public, in and for said county in said State, hereby certify that _____ whose names as _____ of _____ a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, _____ he, as such officer, and with full authority executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal, this _____ day of _____, 19____.

Notary Public

My Commission Expires

92 FEB 10 AM 11:10

JUDGE OF PROBATE

1. Deed Tax	\$	_____
2. Mtg. Tax	\$	<u>75.00</u>
3. Recording Fee	\$	<u>75.00</u>
4. Indexing Fee	\$	<u>3.00</u>
5. No Tax Fee	\$	_____
6. Certified Fee	\$	<u>1.00</u>
Total	\$	<u>94.00</u>

ACKNOWLEDGEMENT FOR PARTNERSHIP

STATE OF ALABAMA

_____ COUNTY

I, the undersigned authority, a Notary Public, in and for said county in said State, hereby certify that _____ whose name(s) as (general) (limited) partner(s) of _____ a(n) _____ (general) (limited) partnership, and (state) 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 _____, as such partner(s), and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal, this _____ day of _____, 19____.

Notary Public

My Commission Expires

This instrument prepared by:

(Name) _____

(Address) _____

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