

# The Prudential Bank and Trust Company

PruAdvance Account  
Loan No. 12208

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

THIS IS A FUTURE ADVANCE Mortgage AND THE PROCEEDS OF THIS 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 BORROWER NAMED HEREIN.

STATE OF ALABAMA

COUNTY OF

## ADJUSTABLE-RATE LINE OF CREDIT Mortgage

THIS INDENTURE is made and entered into this 16th day of September, 1992, by and between BURLEY ROGER DEVILLE AND DIANNA C. DEVILLE, HUSBAND AND WIFE (hereinafter called the "Mortgagor", whether one or more) and THE PRUDENTIAL BANK AND TRUST COMPANY, a banking corporation of the State of Georgia (hereinafter called the "Mortgagee").

### RECITALS

A. *The Secured Line of Credit.* BURLEY ROGER DEVILLE AND DIANNA C. DEVILLE, HUSBAND AND WIFE (hereinafter called the "Borrower", whether one or more) is (are) now or may become in the future justly indebted to the Mortgagee, in the maximum principal amount of FORTY SIX THOUSAND THREE HUNDRED AND NO/100 Dollars (\$46,300.00) (the "Credit Limit") pursuant to a certain open-end line of credit established by the Mortgagee for the Borrower under an agreement entitled "PruAdvance Account Agreement", executed by the Borrower in favor of the Mortgagee, dated the 16th of September, 1992 (the "Agreement"). The Agreement provides for an open-end line of credit pursuant to which the Borrower may borrow and repay, and reborrow and repay, amounts from the Mortgagee up to a maximum principal amount at any one time outstanding not exceeding the Credit Limit. The Real Estate described in this Mortgage as securing such open-end line of credit is residential property.

B. *Rate and Payment Charges.* The Agreement provides for finance charges to be computed on the unpaid balance outstanding from time to time under the Agreement at an adjustable percentage rate. The Annual Percentage Rate for a monthly interval determined by the Mortgagee (a "Billing Cycle"), may be increased or decreased each Billing Cycle based on changes in the Prime Rate. The "Prime Rate" means the per annum rate of interest published as the prime rate in The Wall Street Journal on the first business day preceding the first day of the Billing Cycle. The Annual Percentage Rate charged under the Agreement during each Billing Cycle will be ONE AND THREE QUARTERS percent (1.75%) per annum above the Prime Rate in effect on the first day of the Billing Cycle. The Annual Percentage Rate on the date of this Mortgage is 7.75%. (This rate is based upon the Prime Rate of 6% which was in effect on the first day of the current Billing Cycle.) The Annual Percentage Rate will increase if the Prime Rate increases and will decrease if the Prime Rate decreases. Any increase in the Annual Percentage Rate may result in increased finance charges and increased minimum payment amounts under the Agreement.

C. *Maturity Date.* If not sooner terminated as set forth therein, the Agreement will terminate fifteen years from the date of this Mortgage, and all sums payable thereunder (including without limitation 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 Mortgagee to the Borrower under the Agreement, or any extension or renewal thereof, up to a maximum principal amount at any one time outstanding not exceeding the Credit Limit; (b) all finance charges payable from time to time on said advances, or any part thereof; (c) all other charges, costs and expenses now or hereafter owing by the Borrower to the Mortgagee pursuant to the Agreement, or any extension or renewal thereof; (d) all other indebtedness, obligations and liabilities now or hereafter owing by the Borrower to the Mortgagee under the Agreement, or any extension or renewal thereof; and (e) all advances by the Mortgagee under the terms of this Mortgage (the aggregate amount of all such items described in (a) through (e) above being hereinafter collectively called "Debt") and the compliance with all the stipulations herein contained, the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagee, the following described real estate, situated in SHELBY County, Alabama (said real estate being hereinafter called the "Real Estate"):

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

Together with all the rights, privileges, tenements, appurtenances and fixtures appertaining to the Real Estate, all of which shall be deemed Real Estate and 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, the Prior Mortgage (as hereinafter defined), if any, and any other encumbrance expressly set forth above, 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.

Nothing contained herein shall be construed as providing that this Mortgage shall secure any advances by Mortgagee to the Borrower under the 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.

[Complete if applicable:] This Mortgage is junior and subordinate to that certain Mortgage dated 09/16/1992, and recorded in Volume \_\_\_\_\_ at page \_\_\_\_\_ in the office of the Judge of Probate of SHELBY County, Alabama (the "Prior Mortgage").

The Mortgagor hereby authorizes the holder of the 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 the Prior Mortgage or the indebtedness secured thereby; and (5) any other information

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A Subsidiary of The Prudential 

## ADJUSTABLE-RATE LINE OF CREDIT MORTGAGE

regarding the Prior 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 the 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, then and in such event or events 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 the Prior Mortgage so as to put the same in good standing.

For the purpose of further securing the payment of the Debt, the Mortgagor agrees to: (1) pay all taxes, assessments, and other liens taking priority over this Mortgage (hereinafter jointly called "Liens"), 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 with 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 endorsement, with loss, if any, payable to the Mortgagee, as its interest may appear; such insurance to be in an amount at least equal to the full insurable value of the improvements located on the Real Estate unless the Mortgagee agrees in writing that such insurance may be in a lesser amount. Subject to the rights of the holder of the Prior Mortgage, the original insurance policy and all replacements therefore shall be delivered to, and held by, the Mortgagee until the Debt is paid in full and the Agreement is terminated. The insurance policy must provide that it may not be canceled without the insurer giving at least fifteen days prior written notice of such cancellation to the Mortgagee. Subject to the rights of the holder of the Prior Mortgage, 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 the right, title and interest of the Mortgagor in and to each and every such policy, including, but not limited to, 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, 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 the 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 or for the payment of any amount under the Prior Mortgage shall become a debt due by the Mortgagor and at once payable, without demand upon, or notice to, the Mortgagor, and shall be included in the Debt secured by the lien of this Mortgage, and shall bear interest from date of payment by the Mortgagor until paid at the rate of interest payable from time to time under the Agreement, or such lesser rate as shall be the maximum permitted by law; and if any such amount is not paid in full immediately by the Mortgagor, then at the option of the Mortgagee, this Mortgage shall be in default and subject to immediate foreclosure in all respects as provided by law by the provisions hereof.

Subject to the rights of the holder of the Prior Mortgage, the Mortgagor hereby assigns and pledges to the Mortgagee the following property, rights, claims, rents, profits, issues and revenues:

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

2. all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the 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. The Mortgagee is hereby authorized on behalf of, and in the name of, the Mortgagor to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. The Mortgagee may apply all such sums so received, or any part thereof, after the payment of the Mortgagee's expenses, including court costs and attorneys' 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 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.

Notwithstanding any other provision of this Mortgage or the Agreement, this Mortgage shall be deemed to be in default and the Debt shall become immediately due and payable, at the option of the Mortgagee, upon the sale, lease, transfer, or Mortgage, creation of a security interest in, or other hypothecation by the Mortgagor of all or any part of the Real Estate or all or any legal or equitable interest therein. Without limiting the generality of the restriction set forth in the preceding sentence, said restriction shall specifically include the transfer of any legal or equitable interest in the Real Estate by contract to sell.

The Mortgagee may make or cause to be made reasonable entries upon and inspections of the Real Estate, provided that the Mortgagee shall give the Mortgagor notice prior to any such inspection specifying reasonable cause therefor related to the Mortgagee's interest in the Real Estate.

Except for any notice required under applicable law to be given in another manner, any notice under this Mortgage (a) may be given to the Mortgagor (if the same party as the Borrower) in the manner set forth in the Agreement; (b) may be given to any other Mortgagor by delivering such notice to the Mortgagor (or any one of them if more than one) or by mailing such notice by first class mail addressed to the Mortgagor at any address on the Mortgagee's records or at such other address as the Mortgagor shall designate by notice to the Mortgagee as provided herein; and (c) shall be given to the Mortgagee by first class mail to the Mortgagee's address stated herein or to such other address as the Mortgagee may designate by notice to the Mortgagor as provided herein. Any notice under this Mortgage shall be deemed to have been given to the Borrower, the Mortgagor or the Mortgagee when given in the manner designated herein.

The Mortgagor shall 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, the Mortgagor shall perform all the Mortgagor's obligations under the declaration creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents, all as amended, if a condominium or planned unit development rider is executed by the Mortgagor and recorded together with this Mortgage, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider were a part hereof.

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 officers.

The Mortgagee may terminate the Agreement and accelerate payment of the outstanding balance thereof prior to the scheduled expiration date of the Agreement if:

- (a) There has been fraud or material misrepresentation by the Borrower in connection with the Agreement, including fraud or misrepresentation (whether by acts of omission or overt acts) during the application process or at any other time when the Agreement is in effect;
- (b) The Borrower fails to make any required payment under the Agreement or this Mortgage when due; or
- (c) Any action or inaction by the Borrower or a third party adversely affects the Real Estate, or any right of the Mortgagee in such Real Estate. For example, if the Borrower transfers title to the Real Estate or sells the Real Estate without the Mortgagee's prior written permission, or if the Borrower fails to maintain the insurance required by paragraph 2 on page 2 of this Mortgage, or if the Borrower commits waste or otherwise destructively uses or fails to maintain the Real Estate such that it adversely affects the Real Estate, the Mortgagee is entitled to terminate the Agreement and accelerate the balance outstanding. Further, the Borrower's failure to pay taxes on the Real Estate as required by paragraph 2 on page 2 (or any other action by the Borrower resulting in the filing of a lien senior to that held by the Mortgagee), the Borrower's death or the taking of the Real Estate through eminent domain permit the Mortgagee to terminate the Agreement as well. Moreover, in some circumstances

## ADJUSTABLE-RATE LINE OF CREDIT MORTGAGE

the filing of a judgment against the Borrower, the illegal use of the Real Estate or the foreclosure by a prior lienholder may permit termination of the Agreement if the Mortgagee determines that the Real Estate or the Mortgagee's interest in the Real Estate is or may be adversely affected.

The Mortgagee may temporarily prohibit additional extensions of credit or reduce the credit limit on the Account as specified in the Agreement if:

- (a) The value of the Real Estate declines significantly below the appraised value the Mortgagee used on the date of this Mortgage;
- (b) The Mortgagee reasonably believes the Borrower will not make any required payment on the Borrower's Account when due because of a material change in the Borrower's financial circumstances;
- (c) The Borrower is in default of any material obligation under the Agreement or this Mortgage;
- (d) Any action by a governmental body precludes the Mortgagee from imposing the interest rate specified in the Agreement;
- (e) Any action by a governmental body adversely affects the priority of the Mortgagee's security interest in the Real Estate to the extent that the value of the security interest is less than 120% of the maximum amount of the outstanding Advances (as defined in the Agreement);
- (f) The Mortgagee is notified by a regulatory agency with responsibility for supervising the Mortgagee that continuing to advance funds under the Agreement constitutes an unsafe and unsound practice; or
- (g) The interest rate reaches the maximum rate permitted under the Agreement.

Upon the occurrence of an event of termination hereunder, 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 Debt is paid in full (which Debt includes (a) all advances heretofore or from time to time hereafter made by the Mortgagee to the Borrower under the Agreement, or any extension or renewal thereof, up to a maximum principal amount at any one time outstanding not exceeding the Credit Limit; (b) all finance charges payable from time to time on said advances, or any part thereof; (c) all other charges, costs and expenses now or hereafter owing by the Borrower to the Mortgagee pursuant to the Agreement, or any extension or renewal thereof; (d) all other indebtedness, obligations and liabilities now or hereafter owing by the Borrower to the Mortgagee under the 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 or insurance premiums or the Prior Mortgage, and interest thereon, and the Mortgagor fulfills all of the Mortgagor's obligations under this Mortgage, then this conveyance shall be null and void. But if any event of termination occurs; 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 reasonable attorney's fees; *second*, to the payment in full of the balance of the Debt 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 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 it 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 Borrower or the Mortgagor shall be construed to refer to the maker or makers of the Agreement and this Mortgage respectively, whether one or more natural persons, corporations, associations, partnerships or other entities. All covenants and agreements herein made by the Mortgagor shall bind the heirs, personal representatives, successors and assigns of the Mortgagor; 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.

# ADJUSTABLE-RATE LINE OF CREDIT MORTGAGE

In witness whereof, the undersigned Mortgagor has executed this instrument on the date first written above.

Burley Roger D. Ull  
BURLEY ROGER DEVILLE  
Dianna C. Deville  
DIANNA C. DEVILLE

STATE OF ALABAMA

COUNTY OF Shelby

I, the undersigned authority, in and for said county in said state, hereby certify that Burley Roger Deville & Dianna C. Deville, whose (name is) (names 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

\_\_\_\_\_ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 16th day of September, 19 92

Linda B. Malletta  
Notary Public

My commission expires: 12-27-92

NOTARY MUST AFFIX SEAL

This instrument prepared by: The Prudential Bank and Trust Company, Two Concourse Parkway, Suite 500, Atlanta, Georgia 30328-6106  
When recorded return to: The Prudential Home Mortgage Company, PruAdvance, P.O. Box 1629, Minneapolis, MN 55440

**SCHEDULE "A"**

Lot 2326, according to the Survey of Riverchase Country Club, Twenty-third Residential Subdivision, as recorded in Map Book 10 Page 11 A&B, in the office of the Judge of Probate of Shelby County, Alabama. Mineral and mining rights excepted.

Subject to existing easements, restrictions, set-back lines, rights of way, limitations, if any, of record.

Inst # 1992-20960

09/22/1992-20960  
03:04 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
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