

93-26588

AMSOUTH

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 BORROWER NAMED HEREIN.

STATE OF ALABAMA

Shelby COUNTY

**AmSouth Bank N.A.
Adjustable-Rate Line of Credit Mortgage
(Alabama)**

THIS INDENTURE is made and entered into this 11 day of January, 1994 by and between James A. Brough and wife, Eleanore E. Brough

(hereinafter called the "Mortgagor," whether one or more) and **AmSouth Bank N.A.**, a national banking association (hereinafter called the "Mortgagee").

Recitals

A. The Secured Line of Credit. Mortgagors (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 Twenty thousand and 00/100*****Dollars (\$ 20,000.00) (the "Credit Limit") pursuant to a certain open-end line of credit established by the Mortgagee for the Borrower under an agreement (the "Credit Agreement"), entitled

- "AmSouth Equity Line of Credit Agreement" executed by the Borrower in favor of the Mortgagee, dated January 11, 1994
- "AmSouth Personal Financial Services Line of Credit Agreement" executed by the Borrower in favor of the Mortgagee dated _____, 19____, as amended by an amendment of even date herewith
- "AmSouth Premium Line of Credit Agreement" executed by the Borrower in favor of the Mortgagee dated _____, 19____, as amended by an amendment of even date herewith.

The Credit 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.

B. 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 1.25 % 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 7.25 %. 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; 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.

C. 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.

D. 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 \$ 20,000.00, 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.

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 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 fees, charges, costs and expenses now or hereafter owing by the Borrower to the Mortgagee pursuant to the Credit 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 Credit 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"):

Lot 23, in Block 6, according to the Amended Survey of Woodford, as recorded in Map Book 8, Page 51 A, B, C, and D in the Office of the Judge of Probate of Shelby County, Alabama.

Inst # 1994-02907

01/27/1994-02907
09:42 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
003 MCD 43.50

Form 940195
bkF2 (Rev. 11/92)

Return To:
Alabama Title Co., Inc.

1994-02907

43.50

The Mortgagee agrees to pay all costs, including reasonable attorneys' fees incurred by the Mortgagee in collecting or securing or attempting to defend the priority of this mortgage against any lien or encumbrance on the Real Estate, unless this mortgage is herein expressly subject to any such or it may be offered for sale and sold in any other manner the Mortgagee may elect.

The Mortgagee agrees to pay all costs, including reasonable attorneys' fees incurred by the Mortgagee in collecting or securing or attempting to defend the priority of this mortgage against any lien or encumbrance on the Real Estate, unless this mortgage is herein expressly subject to any such or it may be offered for sale and sold in any other manner the Mortgagee may elect.

Upon condition, however, that: (a) the Debt is paid in full (which Debt includes (i) all advances heretofore or from time to time hereafter made by the Mortgagee 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; (ii) all finance charges payable from time to time on said advances, or any extension or renewal thereof; (iii) all other fees, charges, costs and expenses now or hereafter owing by the Borrower to the Mortgagee pursuant to the Credit Agreement, or any extension or renewal thereof; (iv) all other indebtedness, obligations and liabilities now or hereafter owing by the Borrower to the Mortgagee under the terms of this mortgage; (v) the Mortgagee's reimbursement for any amounts the Mortgagee has paid in payment of Lenses or insurance premiums or any prior mortgages, and interest thereon; (c) the Mortgagee fulfills all of the Mortgagee's obligations under this mortgage; (d) the Credit Agreement is terminated and the Bank has no obligation to extend any further credit to the Borrower under the terms of this mortgage; and (e) an appropriate written instrument in satisfaction of this mortgage has been executed by a duly authorized officer of the Mortgagee and properly recorded; this mortgage shall be null and void. But: (1) default is made in the payment of any sum paid by the Mortgagee under the authority of any provision of this mortgage; (2) the Debt, or any part thereof, or any other indebtedness, obligation or liability of the Borrower, the Mortgagee, or any of them, to the Mortgagee remains unpaid at maturity, whether by acceleration or otherwise; (3) the interest of the Mortgagee in the Real Estate becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon; or (4) 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 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 or 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, Lenses, 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 Mortgagee 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 in any other manner the Mortgagee may elect.

The Mortgagee 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 Mortgagee shall perform all the Mortgagee's obligations under the declaration creating or governing the condominium or planned unit development, and constituent documents, all as amended. If a condominium or planned unit development rider is executed by the Mortgagee 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 Mortgagee 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 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 the occurrence of an event of default 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.

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 Mortgagee 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 Mortgagee (if the same party as the Borrower) in the manner set forth in the Credit Agreement; (b) may be given to any other Mortgagee or any other party to the mortgage (if more than one) or by mailing such notice by first class mail addressed to the Mortgagee at any address on the Mortgagee's records or at such other address as the Mortgagee 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 Mortgagee as provided herein. Any notice under this mortgage shall be deemed to have been given to the Borrower, the Mortgagee or the Mortgagee when given in the manner designated herein.

The Mortgagee shall 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 Credit 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 by the Mortgagee of all or any part of, or all or any part of, or all or any interest in, the Real Estate, including transfer of an interest by contract to sell.

The Mortgagee 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.

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lien or encumbrance; and 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 the 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(s) or the undersigned shall be construed to refer to the maker or makers of the Credit 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 undersigned shall bind the heirs, personal representatives, successors and assigns of the undersigned; and every option, right and privilege herein reserved or secured to the Mortgagee shall inure to the benefit of the Mortgagee's successors and assigns.

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

James A. Brough (Seal)
James A. Brough
Eleanore E. Brough (Seal)
Eleanore E. Brough (Seal)

Inst # 1994-02907

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 _____

James A. Brough, and wife Eleanore E. Brough

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 Y executed the same voluntarily on the date the same bears date.

Given under my hand and official seal, this 11 day of January, 1994.

Cheryl Melvin
Notary Public

My commission expires: April 29, 1996

NOTARY MUST AFFIX SEAL

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 name 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 official seal, this _____ day of _____, 19 _____.

Notary Public

My commission expires: _____

NOTARY MUST AFFIX SEAL

This instrument prepared by:

(Name) AmSouth Bank, N.A./Equity Dept.

(Address) P.O. Box 11007

Birmingham, AL. 35288

Inst # 1994-02907

01/27/1994-02907
09:42 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
003 MCD 43.50