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Shelby Cnty Judge of Probate,AL
08/05/1994 10:43:02 FILED/CERTIFIED

Colonial Bank
Equity Line
Adjustable Rate Mortgage

I. Made this 7th day of July, 1994, by and between **SEE BELOW** (referred to as "Mortgagor" or "You," whether singular or plural) and the Colonial Bank, an Alabama banking corporation (referred to as "Mortgagee," "We," "Our," or "Us").

NOTE: You are giving Us this Adjustable Rate Mortgage to secure an open-end line of credit, called Your "Equity Line," dated 07-07, 19 94. The annual percentage rate on Your Equity Line may change. Increases in Your annual percentage rate may result in higher monthly payments and increased finance charges; decreases in Your annual percentage rate may have the opposite effect.

II. 1. Your Equity Line. You either have or will enter into an agreement with Us (the "Equity Line Agreement") which obligates Us to extend to You a line of credit up to a maximum amount of $ 20,700.00 (referred to as Your "Credit Limit"). According to the terms of Your Equity Line Agreement, You may borrow as much as You like up to Your Credit Limit. If You repay part of the amounts borrowed, You may then borrow money again up to You Credit Limit.

If We honor Equity Line checks in excess of Your Credit Limit, then any amount over Your Credit Limit will not be secured by this Mortgage. However, You still will have to pay all credit extended to You according to the terms and conditions set forth in Your Equity Line Agreement.

You are granting Us a mortgage in residential property to secure Your Equity Line.

2. Annual Percentage Rate. The annual percentage rate which We may charge on the unpaid balance of Your Equity Line is subject to change monthly in accordance with the terms of Your Equity Line Agreement. You should refer to Your Equity Line Agreement for the terms governing the calculation of the annual percentage rate.

III. In consideration of the mutual promises herein contained, You hereby grant, bargain, sell and convey to Us the property ("Property") described below:

(a) The real estate ("Real Estate") which is located at Pelham in Shelby County, more particularly described as follows:

109 Sussex Mill Lane
Shelby County
Pelham, AL 35124

(b) All buildings, structures, and other improvements that are located on the property described in the paragraph (a) of this section.

(c) All rights in other property that You have as owner of the property described in paragraph (a) of this section. These rights are known as "easements, rights and appurtenances attached to the property."

(d) All rents or royalties from the property described in paragraph (a) of this section;

(e) All mineral, oil and gas rights and profits, water rights and water stock that are part of the property that is described in paragraph (a) of this section;

(f) All rights that You have in the land which lies in the streets or roads in front of, or next to, the property described in paragraph (a) of this section;

(g) All fixtures on the property described in paragraphs (a) and (b) of this section;

(h) All of the property described in paragraphs (b) through (g) of this section that You acquire in the future, and all rights described in paragraphs (b) through (f) that You acquire in the future;

(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 property described in paragraphs (a) and (b) of this section.

This property has the following legal description:

**SEE BETWEEN - Robert Lynn Horton and wife, Tamarah Adams Horton

Lot 22, according to the Survey of Weatherly, as recorded in Map Book 13, page 1, in the Probate Office of Shelby County, Alabama.

Inst # 1994-24522

08/05/1994-24522
10:43 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
003 MCD 33.35

We may exercise all rights contained herein if You:

(a) Do not pay all amounts owed under Your Equity Line Agreement as and when due, including principal, finance charges and all other indebtedness incurred in connection with Your Equity Line;

(b) Do not pay, with interest, as and when due, any amount that We spend under this Adjustable Rate Mortgage to protect the value of the property and Our rights in the property;

(c) Engage in fraud or material misrepresentation by Your actions or failure to act, in connection with any part of Your Equity Line Agreement; or

(d) Your action or inaction adversely affects the collateral for Your Equity Line, or Our rights in the collateral, as is more specifically set out in Your Equity Line Agreement.

You promise that except for the "exceptions" listed in any title insurance policy which insures Our rights in the property:

(a) You lawfully own the property;

(b) You have the right to mortgage and convey the property to Us; and

(c) There are no outstanding claims or charges against the property.

You give Us a general warranty of title. This means that You will be fully responsible for any losses which We suffer because someone other than Us has some of the rights in the property which You promise that You have. You promise that You will defend Our ownership of the property against any claims of such rights.

IV. 1. **You Promise to Pay.** You will promptly pay Us when due:

(a) All advances already made or to be made under Your Equity Line Agreement or any extension or renewal thereof;

(b) All finance charges incurred on such advances; and

(c) All other charges, costs and expenses which You now owe or will owe to Us under You Equity Line Agreement.

2. **Insurance.** You agree that You will keep the buildings erected or to be erected on the real estate insured against loss or damage by fire, and such other hazards as may be specified by Us, for Our benefit, and by insurers and in amounts approved by Us. You also agree to deliver such insurance policy or policies to Us, and have attached thereto loss payable clauses in favor of and in a form acceptable to Us. The fire insurance policy shall contain the usual extended coverage endorsement.

If You fail to obtain such insurance, We may, at Our option, obtain such insurance, and the premiums therefor shall be a lien on the Property and added to the amount of Your obligations secured by this Adjustable Rate Mortgage. In the case of a loss, any insurance proceeds payable to You and/or Us are, to the extent of You interest, hereby assigned to Us. We may use such proceeds to preserve and protect Our rights under this Adjustable Rate Mortgage and Equity Line Agreement, or to secure repayment of the Equity Line or to rebuild or restore the damaged buildings or improvements, as We deem best. Further, We shall have the absolute right to settle and compromise all claims under said policies of insurance.

3. **Payment of Taxes; Discharge of Liens; Inferior Liens.** You shall pay all taxes, assessments, water rents and other governmental charges levied upon said premises, in a timely fashion. If You default in the payment of Your taxes and other charges, We may, at Our option, pay said taxes, and other charges, and such payments shall be a lien on the Property and added to the amount of Your debt to Us secured by this Adjustable Rate Mortgage.

You agree to pay or satisfy all liens against the Property that may be superior to this Adjustable Rate Mortgage. However, You do not have to satisfy a superior lien if:

(a) You agree, in writing, to pay the obligation which gave rise to the superior lien and We approve the way in which You agree to pay that obligation;

(b) You, in good faith, argue or defend 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) You obtain from the holder of such lien an agreement which subordinates, i.e. gives Us priority over, the competing lien.

You agree not to allow any creditor to place a lien on or receive any security interest in the property securing Your Equity Line debt without first notifying Us.

4. **Application of Payments.** Unless the law requires otherwise, We will apply each of Your payments under Your Equity Line Agreement in the following order:

(a) credit insurance premiums (if any);

(b) FINANCE CHARGES, but not including late charges, which have been incurred during the most recent billing cycle; and

(c) the balance remaining.

5. **Your Agreement to Maintain the Property; Lease Obligations; Agreements About Condominiums and Planned Unit Developments.** You agree to keep the property in good repair. You will not destroy, damage or substantially change the property, and You will not allow the property to deteriorate. If You do not own but are a tenant on the property, You will fulfill all obligations under Your lease.

If the property is a unit in a condominium project or a planned unit development, You will fulfill all of Your obligations under the Declaration, By-Laws, Regulations and other documents that create or govern the condominium project or planned unit development. Also, You will not divide the property into smaller parts that may be owned separately, and

You will not consent to any of the following unless You have first given Us notice and obtained Our consent in writing:

(a) the abandonment or termination of the condominium project or planned unit development, unless, in the case of the condominium, the abandonment or termination is required by law;

(b) any significant change to the Declaration, By-Laws, or Regulations of the Owner Association, Trust Agreement, Articles of Incorporation, or other documents that create or govern the condominium project or planned unit development [illegible]

[illegible]

a legal proceeding in bankruptcy, in probate, for condemnation, or to enforce laws or regulations), then We may do and pay for whatever is necessary to protect the value of the property and Our rights in the property. Our actions under this paragraph may include, for example, appearing in court, paying reasonable attorneys' fees, and entering the property to make repairs. We will give You notice before We take any of these actions.

You must pay to Us any amounts, with interest, which We spend under this paragraph. This Adjustable Rate Mortgage will protect Us in case You do not keep this promise to pay those amounts with interest. However, any sums expended by Us in excess of Your Equity Line Credit Limit will not be secured by this Adjustable Rate Mortgage.

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

Any amounts We disburse pursuant to this paragraph, with interest thereon, shall become additional indebtedness of Yours secured by the Adjustable Rate Mortgage.

Although We may take action under this paragraph, We do not have to do so.

7. **Our Right of Inspection.** We, and others authorized by Us, may enter and inspect the property. We must do so in a reasonable manner and at reasonable times. However, before one of those inspections is made, We must give You notice stating a reasonable purpose for the inspection. That purpose must be related to Our rights in the property.

8. **Condemnation.** A taking of property by any governmental authority by eminent domain is known as "condemnation." You give to Us Your right:

(a) to proceeds of all awards or claims for damages resulting from condemnation or other governmental taking of the property (or if the property includes a unit in a planned unit development, of the common areas and facilities of the planned unit development); and

(b) to proceeds from a sale of the property (or if the property includes a unit in a planned unit development, of the common areas and facilities of the planned unit development) that is made to avoid condemnation. All of these proceeds are to be paid to Us.

If all or part of the property is taken, the proceeds will be used to reduce the amount that You owe to Us under Your Equity Line Agreement and this Adjustable Rate Mortgage. If any of the proceeds remain after the amount that You owe to Us has been paid in full, the remaining proceeds will be paid to You.

If You abandon the property, or if You do not answer within thirty days a notice from Us stating that a governmental authority has offered to make a payment or to settle a claim for damages, then We have the authority to collect the proceeds. We may then use the proceeds to repair or restore the property or to reduce the amount that You owe to Us under the Equity Line Agreement and this Adjustable Rate Mortgage. The thirty day period will begin on the date the notice is mailed, or if it is not mailed, on the date the notice is delivered. If any proceeds are used to reduce the amount of principal which You owe Us under the Equity Line Agreement, that use will not delay the due date or change the amount of any of Your monthly payments under the Equity Line Agreement. However, You and We may agree in writing to those delays or changes.

9. **Continuation of Your Obligations.** We may allow a person who takes over Your rights and obligations to delay or to change the amount of the monthly payments due under Your Equity Line Agreement or under this Adjustable Rate Mortgage. Even if We do this, however, that person and You will both still be fully obligated under the Equity Line Agreement and under this Adjustable Rate Mortgage unless the conditions stated in this Adjustable Rate Mortgage have been met.

We may allow those delays or changes for a person who takes over Your rights and obligations, even if We are requested not to do so. We will not be required to bring a lawsuit against such a person for not fulfilling obligations under the Equity Line Agreement or under this Adjustable Rate Mortgage, even if We are requested to do so.

10. **Continuation of Our Rights.** Even if We do not exercise or enforce any right under this Adjustable Rate Mortgage or under the law, We will still have all of those rights and may exercise them and enforce them in the future. Even if We obtain insurance, pay taxes, or pay other claims, charges or liens against the property, We will still have the right to demand that You make immediate payment in full of the amount that You owe Us under the Equity Line Agreement and under this Adjustable Rate Mortgage.

11. **Our Rights of Enforcement.** Each of Our rights under this Adjustable Rate Mortgage is separate. We may exercise and enforce one or more of these rights, as well as any of Our rights under the law, one at a time or all at once.

12. **Obligations of You and of Persons Taking Over Your Rights or Obligations; Agreement Concerning Captions.** Subject to the terms of this Mortgage, any person who takes over Your rights and obligations under this Mortgage shall have all of Your rights and will be obligated to keep all of Your promises and agreements made in this Adjustable Rate Mortgage. Similarly, any person who takes over Our rights or obligations under this Adjustable Rate Mortgage will have all of Our rights and will be obligated to keep all of Our agreements made in this Adjustable Rate Mortgage.

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

(a) that person is signing this Adjustable Rate Mortgage only to give his or her rights in the property to Us under the terms of this Adjustable Rate Mortgage;

(b) that person is not personally obligated to make payments or to act under the Equity Line Agreement or under this Adjustable Rate Mortgage; and

[illegible]

13. Agreement Concerning Notices. Unless the law requires otherwise, any notice that must be given to You under this Adjustable Rate Mortgage will be given by delivering or mailing it addressed to You at the address stated in Section III above. A notice will be delivered or mailed to You at a different address if You give Us a notice of Your different address. Any notice that must be given to Us under this Mortgage will be given by mailing it to Our address stated above. A notice should be mailed to Us at a different address if We give You a notice of the different address. A notice required by this Adjustable Rate Mortgage is given when it is mailed or when it is delivered according to the requirements of this paragraph.

14. Agreement is Enforceable. If any terms of this Adjustable Rate Mortgage and the Equity Line Agreement conflict with any provision of the law, all other terms of the Adjustable Rate Mortgage and of the Equity Line 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 Mortgage and of the Equity Line Agreement which conflict with the law can be separated from the remaining terms, and the remaining terms will still be enforced.

15. Borrower's Copy of the Equity Line Agreement and of this Adjustable Rate Mortgage. You will be given a copy of the Equity Line Agreement and of this Adjustable Rate Mortgage. Those copies must show that the original Equity Line Agreement and the Adjustable Rate Mortgage have been signed. You will be given those copies either when You sign the Equity Line Agreement and this Adjustable Rate Mortgage or after this Adjustable Rate Mortgage has been recorded in the proper official records.

16. Transfer of the Property. If You sell all or any part of the property, or if an interest herein is sold or transferred without Our prior written consent, then We may, at Our option, declare all the sums secured by this Adjustable Rate Mortgage to be immediately due and payable. However, this option may not be exercised by Us if in so doing We would violate any applicable law.

If We exercise such an option to accelerate, We shall mail You notice of the acceleration in accordance with this Adjustable Rate Mortgage. We may without further notice or demand on You, invoke any remedies permitted by this Adjustable Rate Mortgage for default.

17. Our Rights Upon Your Default. If You default under the default provision of the Equity Line Agreement, We may "accelerate" Your obligations. This means that all debts You owe Us will become immediately due and payable. If We decide to accelerate, We must mail You a notice which states how You have breached this Adjustable Rate Mortgage.

After sending You the notice, We may sell the property at public outcry and exercise any other legal right We have. After default, We will be entitled to all costs We incur in pursuing any rights We have, including, but not limited to, reasonable attorneys' fees if We refer the matter to an attorney who is not a salaried employee of ours.

If We decide to sell the property, We will give You a copy of the notice of sale. The notice will be published for three consecutive weeks in a paper in the county where the property is located. We will sell the property to the highest bidder (which may be Us) at a public auction on the steps of the county courthouse in the same county where the property is located. We then will give a deed conveying the property to the highest bidder. The proceeds from the sale will be applied first to the costs of the sale (which include, among other expenses, reasonable attorneys' fees and title searches), then to the debt secured by this Adjustable Rate Mortgage, and finally to the person who is legally entitled to any remaining sums.

18. Our Right to Rental Payments and Possession. As additional protection for Us, You give Us all of Your rights to any rental payments from the property. However, until We require immediate payment in full, or until You abandon the property, You have the right to collect and keep those rental payments as they become due. You agree that You have not given any of Your rights to rental payments from the property to anyone else, and You will not do so without Our consent in writing.

If We require immediate payment in full, or if You abandon the property, then We, persons authorized by Us, or a receiver appointed by a court at Our 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) manage the property; and

(d) sign, cancel and change leases. [illegible] that We have the right to collect rental payments [illegible] paragraph, then the tenants may make those rental payments [illegible] having to ask whether You have failed to keep Your promises and agreements under this Adjustable Rate Mortgage.

If there is a judgment for Us in a lawsuit for foreclosure and sale, You will pay Us reasonable rent from the date the judgment is entered for as long as You occupy the property. However, this does not give You the right to be a tenant on the property.

All rental payments collected by Us or by a receiver, other than the rent paid by You 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 You owe to Us under the Equity Line Agreement and under this Adjustable Rate Mortgage. The costs of managing the property may include the receiver's fees, reasonable attorneys' fees, and the cost of any necessary bonds. We and the receiver will be obligated to account only for those rental payments that We actually receive.

19. Discharge and Release. When You have given Us written notice that You wish to terminate Your Equity Line and have paid all amounts due under Your Equity Line Agreement and under this Adjustable Rate Mortgage, We will discharge this Adjustable Rate Mortgage by delivering a certificate that this Adjustable Rate Mortgage has been satisfied. You will not be required to pay Us for the discharge, but You will pay all costs of recording the discharge in the proper official records.

20. Maximum Credit Charges. You have agreed, according to the terms set forth in Your Equity Line Agreement, to pay charges on the credit extended to You. If the credit is subject to a law which sets a maximum charge, and this law is interpreted so that the interest or other credit charges which We impose 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 You have paid Us in excess of the legal limit will be refunded to You. Such refund may be made by reducing the balance owed under Your Equity Line Agreement or by making a direct payment to You.

By signing this Adjustable Rate Mortgage, You agreed to all of the above.

X: *[signature]*
Robert Lynn Horton
Borrower

X: *Tamarah Adams Horton*
Tamarah Adams Horton
Borrower

STATE OF Alabama

COUNTY OF Shelby

On this 7th day of July, 19 94

I, *Marilyn B. Magnor*, a Notary Public in and for said county in said state, hereby certify that Robert Lynn and Tamarah Adams Horton whose name(s) is/are signed to the foregoing conveyance and who is/are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, He/She executed the same voluntarily on the day the same bears date.

Given under my hand this, the *7th* day of *July*, 19*94*

Marilyn B. Magnor
Notary Public

My Commission Expires *2/25/95*

This instrument prepared by:

Colonial Bank
K. [illegible]

Inst # 1994-24522
08/05/1994-24522
10:43 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
003 MCD 31.35