

THIS INSTRUMENT PREPARED BY: Richard W. Theibert, Attorney  
Najjar Denaburg, P.C.  
2125 Morris Avenue, Birmingham, Alabama 35203

MORTGAGE MODIFICATION AGREEMENT

THE STATE OF ALABAMA)  
COUNTY OF SHELBY )

This Agreement is by and between Compass Bank, (hereinafter referred to as "Bank") and Don G. Owens and spouse, Kathy H. Owens, (hereinafter referred to as "Borrower").

WHEREAS, Borrower is indebted to Bank as evidenced by a Real Estate Note dated March 25, 1994 ("Note"); and secured by a Real Estate Mortgage on real property situated in Shelby County, Alabama, such Real Estate Mortgage, dated March 25, 1994, being recorded in Instrument #1994-10578, in the Office of the Judge of Probate of Shelby County, Alabama, ("Mortgage"); and

WHEREAS, Borrower and Bank desire to modify the terms of said Mortgage set forth herein.

NOW, THEREFORE, for and in consideration of the premises, Borrower and Bank agree that the Mortgage is modified as follows:

A renewal Real Estate Note, which is hereby attached and incorporated by reference, dated September 1, 1994, in the amount of \$116,000.00 modifying certain terms of that Real Estate Note in the amount of \$133,500.00 as mentioned above, in which has been executed by the above referenced Borrowers to be secured by the above referenced Mortgage.

An Adjustable Rate Mortgage Amendment, dated September 1, 1994 and recorded simultaneously herewith to modify certain terms of said Mortgage set forth herein.

Except as modified on the above mentioned renewal Real Estate Note attached herewith, and the Adjustable Rate Mortgage Amendment, all of the terms and conditions of the Mortgage shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective this 1st day of September, 1994.

LENDER:

Compass Bank

*Susan Reese*

BY:

ITS: *Real Estate Officer*

WITNESS

\_\_\_\_\_

\_\_\_\_\_

BORROWER:

*Don G. Owens*

Don G. Owens

*Kathy H. Owens*

Kathy H. Owens

Inst # 1994-28468

PAGE 1 OF 2

09/19/1994-28468  
09:15 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
006 SNA 22.00

THE STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Susan DuBose whose name as Real Estate Officer of Compass Bank, a Bank, is signed to the foregoing conveyance, and who is known to me, acknowledged before me and with full authority, executed the same voluntarily for and as the act of said Bank.

Given under my hand and official seal this 1st day September, 1994.



Notary Public

My commission expires: MY COMMISSION EXPIRES JUNE 23, 1997

THE STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Don G. Owens and Kathy H. Owens, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of this conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 1st day September, 1994.



Notary Public

My commission expires: MY COMMISSION EXPIRES JUNE 23 1997



ADJUSTABLE RATE  
REAL ESTATE NOTE  
(1 Year Treasury Index - Simple Interest)

Don G. Owens

FILE UNDER	Kathy H. Owens	
Birmingham	ALABAMA	\$ 116,000.00
September 1	19 94	LOAN OFFICER S. DuBose

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received this date, September 1, 19 94, I promise to pay the original principal sum of One Hundred Sixteen Thousand and NO/100 Dollars (\$ 116,000.00)

and any amounts advanced or paid for me under this note (the total amount is called "principal"), plus interest, to the order of COMPASS BANK (the "Bank"). I understand that the Bank may transfer this note. The Bank or anyone who takes this note by transfer and who is entitled to receive payments under this note will be called the Lender.

2. INTEREST

Interest will be charged on that part of principal which has not been paid beginning on the date of this note. I will pay interest at an initial yearly rate of 6.50 percent. The interest rate I will pay will change in accordance with Section 4 of this note.

3. PAYMENTS

I will pay the amounts due under this note by making consecutive monthly payments on the first day of each month, beginning October 1, 19 94. If required by the Lender, I will pay one-twelfth (1/12) of my annual taxes and insurance on the mortgaged property (the escrow requirement) as part of my monthly payment. Lender will apply my payments first to the escrow requirement, second to interest, third to late charges and Lender's costs and expenses (as described in Section 8 below) and then to principal.

If the Lender receives a payment amount that is not sufficient to pay all interest which has been earned by Lender since my last payment, the Lender may advance an amount equal to the interest earned but unpaid after application of my payment. The amount advanced by Lender will be added to the principal of this note, and I will pay interest on the amount advanced.

My first 60 monthly payments will be in the amount of \$ 864.86 (the "Beginning Monthly Payment"). Each year, after Lender has received my 12 previously scheduled payments, the Lender will use the balance due under this note and the interest rate applicable to this note at that time to calculate my adjusted monthly payment amount.

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) CHANGE DATES

The interest rate I will pay may change on the 1st day of September, 19 99, and on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) THE INDEX

Beginning with the first Change Date, my interest rate will be based on an index. The index will be the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year, as made available by the Federal Reserve Board. The index is published in the "Key Money Rates" section of USA TODAY. The most recent index figure available before each Change Date is called the "Current Index." If the index is no longer available, the Lender will choose a new index which is based upon comparable information. The Lender will give me notice of its choice.

(C) CALCULATION OF CHANGES

On each Change Date, the Lender will calculate my new interest rate by adding 2.80 percentage points to the Current Index. This sum will be my new interest rate until the next Change Date, subject to any limits in Section 4(D) below.

The Lender will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I owe at the Change Date in full by September 1, 2014, which is the maturity date of this note. The result of this calculation will be the new amount of my monthly payment.

(D) LIMITS ON INTEREST RATE CHANGES

My interest rate will never be increased or decreased on any single Change Date by more than two percentage points (2%) from the rate of interest I have been paying for the preceding twelve months. My interest rate will never go below 5.00 percent nor be greater than 12.50 percent.

(E) EFFECTIVE DATE OF CHANGES

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again or until I have fully repaid this note.

(F) NOTICE OF CHANGES

The Lender will mail or deliver to me a notice containing my new interest rate and the amount of my monthly payment. The notice will include information required by law to be given me. Any notice to me may be sent or delivered to the address stated below, or to such other address as I may designate to the Lender in writing.

5. THIS NOTE SECURED BY REAL ESTATE

In addition to the protections given to the Lender in this note, a mortgage, deed of trust or deed to secure debt dated September 1, 1994 (the "Security Instrument") and covering real property owned by me is given to secure payment of this note and to provide to Lender protections from possible losses which might result if I do not keep the promises which I made in this note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full (as described in Section 8 of this note) of all amounts that I owe under this note. It also describes other circumstances where the Lender may make advances or payments for me.

6. BORROWER'S PAYMENTS BEFORE THEY ARE DUE

Any prepayment of principal may result in this note having an earlier maturity date than shown in Section 4 above.

(Check One)

☒ I may prepay all or any part of the principal of this note at any time without penalty.

☐ I will pay a prepayment charge if I pay the principal amount of this note before it is due. The prepayment charge will be \_\_\_\_\_

7. PURPOSE AND BENEFIT OF LOAN

The purpose of this loan is: refinance

Check one: ☒ Personal, family or household. ☐ Business or commercial. ☐ Agricultural.

For cosigner disclosure purposes, the benefit of this loan is received by: Check one: ☒ all signers ☐ fewer than all signers ☐ not applicable if business, commercial, or agricultural loan.

SECTIONS 8, 9, 10, 11 and 12 APPEARING ON THE REVERSE SIDE OF THIS NOTE ARE A PART OF THIS AGREEMENT.

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

5428 Sunrise Drive

Address

Birmingham, AL 35242

Address

(him) &

(her)

933-3806

SS No

Phone No.

Don G. Owens

Kathy H. Owens

NOTICE: SEE REVERSE SIDE FOR IMPORTANT ADDITIONAL TERMS AND CONDITIONS

## ADDITIONAL TERMS AND CONDITIONS

### 8. BORROWER'S FAILURE TO PAY AS REQUIRED

#### (A) LATE CHARGE FOR OVERDUE PAYMENTS

If the Lender has not received the full amount of any of my payments by the end of ten (10) calendar days after the date it is due, I will pay a late charge to the Lender. The amount of the charge will be five percent (5%) of that portion of my monthly payment which is overdue, or \$50, whichever is greater. In no event will the late charge exceed \$100. I will pay this late charge only once on any late payment.

#### (B) DEFAULT

If I do not make the payments as described in Section 3 of this note, or I fail to pay any other amounts that I may owe Lender, now or in the future, including any amounts that I become obligated to pay as a result of another loan from Lender or my guaranty of a loan to someone else by Lender, I will be in default. If I am in default for this reason in the future to keep any other promise which I make in this note or in the Security Instrument referred to in Section 5, the Lender may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount, (known as "Immediate Payment in Full"). The Lender will not have to give me prior notice of its decision to require Immediate Payment in Full.

I understand that upon the occurrence of any one of the following additional events of default, that the Lender may require Immediate Payment in Full:

(a) the default or insolvency of Borrower;

(b) the general assignment by judgment against or filing of petition in bankruptcy by or against Borrower;

(c) the filing of application in any court for a receiver for Borrower; or

(d) the issuance of a writ of garnishment or attachment in a suit or action against any of the assets of Borrower.

Even if, at a time when I am in default, the Lender does not require me to make Immediate Payment in Full as described above, the Lender will still have the right to do so at a later time. I am in default again.

#### (C) PAYMENT OF LENDER'S COSTS AND EXPENSES

If the Lender has required me to make Immediate Payment in Full as described above, the Lender will have the right to be paid back for all of its reasonable costs and expenses and I will pay interest at the rate stated in Section 2 of this note until all amounts are paid. Reasonable costs and expenses include, for example, reasonable attorney's fees and costs of collection.

#### (D) RIGHT OF SET OFF

In addition to the rights of Lender upon default listed above and in the Security Instrument described in Section 5 of this note, I give to Lender the right to apply to or set off against the amount I owe to Lender under this note any and all money on deposit with or other property in the possession, control or custody of Lender if the Lender has required me to make Immediate Payment in Full. The Lender will not have to give me prior notice of its decision to require Immediate Payment in Full or to set off against the amount I owe under this note.

### 9. LENDER'S RIGHTS IF BORROWER SELLS OR TRANSFERS THE PROPERTY

If I voluntarily or involuntarily sell or transfer all or part of the real property or any rights in the real property, which are subject to the Security Instrument I give to protect the Lender as described in Section 5 of this note, Lender may require Immediate Payment in Full.

### 10. BORROWER'S WAIVERS

I have read the provisions of this note which exempt some of my real and personal property from being taken to satisfy my debts to a creditor such as Lender. These rights to exemption are provided by the Constitution or laws of the United States, and the Constitution or laws of the State of Alabama or some other state and may be waived. I hereby voluntarily and knowingly waive all of those rights of exemption as they relate to any property specifically given to Lender to secure payment of one or more other debts under any security agreement, mortgage or other property conveyance.

I also waive my rights to require the Lender to do certain things. Those things are (A) to demand payment of amounts due (known as "presentment"), (B) to give notice that amounts due have not been paid (known as "notice of dishonor"), (C) to obtain an official certification of nonpayment (known as a "protest"). Anyone else (i) who agrees to keep the promises made in this note, or (ii) who agrees to make payments to the Lender if I fail to keep my promises under this note, or (iii) who signs this note to take for it by agreement also waives these rights.

### 11. UNCONDITIONAL RESPONSIBILITY OF PERSONS UNDER THIS NOTE

If more than one person signs this note, each of us is fully and personally obligated to pay the full amount and to keep all of the promises made in this note. Anyone else (i) who agrees to keep the promises made in this note, or (ii) who agrees to make payments to the Lender if I fail to keep my promises under this note, or (iii) who signs this note to take for it to someone else is also obligated to do these things. The Lender may enforce its rights under this note against each of us individually, or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this note. The Lender is not required to proceed by taking any property given to secure this note before requiring us to pay.

If more than one person signs this note, the Lender may agree with any one of us to take the following action without notifying any other person or obtaining their consent and without relieving the obligation of any of us to pay the full amount owed:

(a) accept prepayment of the note;

(b) extend the note for any length of time or otherwise revise the terms of the note; or

(c) release or exchange any of the real or personal property given to secure the note.

Any person who takes over my rights or obligations under this note, including those persons receiving or managing my property after my death (known as "heirs, executors or administrators"), will have all of my rights and must keep all of my promises made in this note.

### 12. INVALIDITY OF ANY PROVISIONS; MISCELLANEOUS

I agree that I will not be bound by any law which is contrary to public policy, and agree that this note shall be read by any court to fulfill this intention. The intent of this note is to be read to the maximum extent permitted by law, but will be limited to the maximum amount allowed by the usury laws as construed by the courts. I agree that the Lender and I intend that each and every provision of this note shall be valid and enforceable to the fullest extent permitted by law. If any provision of this note is held to be invalid or unenforceable, the remaining provisions shall not be affected.

I agree that this note, together with the instrument I give to protect the Lender contain the entire agreement between myself and the Lender. Any change in the agreement must be in writing.



THIS INSTRUMENT PREPARED BY (Name) Richard W. Theibert, Attorney, Najjar Denaburg, P.C.  
(Address) 2125 Morris Avenue, Birmingham, Alabama 35203

STATE OF ALABAMA  
COUNTY OF SHELBY

## ADJUSTABLE RATE MORTGAGE AMENDMENT

(1 Year Treasury Index — Simple Interest)

NOTICE: THE MORTGAGE AND THIS AMENDMENT SECURE AN ADJUSTABLE RATE NOTE WHICH CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE. INCREASES IN THE INTEREST RATE MAY RESULT IN HIGHER PAYMENTS OR A LARGER FINAL PAYMENT. DECREASES IN THE INTEREST RATE MAY RESULT IN LOWER PAYMENTS, A SMALLER FINAL PAYMENT, OR AN ADJUSTMENT OF THE MATURITY DATE.

This Adjustable Rate Mortgage Amendment, dated September 1, 1994, amends and supplements the Mortgage dated March 25, 1994, which I gave to ~~Central Bank~~ Compass Bank (the "Lender"): ( ) to which this Amendment is attached. (X) which is recorded in the office of the Judge of Probate of Shelby County, Alabama, in Real Instrument #1994-10578 Page       . This Amendment covers the Property described in the Mortgage.

The word "Note" used in the Mortgage and this Amendment shall include an "Adjustable Rate Note." An Adjustable Rate Note is a note containing provisions allowing Lender to change the interest rate and the monthly payment amounts, and to increase the amount of principal to be repaid as a result of changes in an interest rate index.

### ADJUSTABLE RATE MORTGAGE AMENDMENT

In addition to the promises and agreements I make in the Mortgage, I promise and agree with Lender as follows:

#### (A) Interest Rate and Monthly Payment Changes

The Note provides for a beginning interest rate of 6.50 percent. The Note provides for changes in the interest rate and the monthly payments as follows:

#### 4. INTEREST AND MONTHLY PAYMENT CHANGES

##### (A) Change Dates

The interest rate I will pay may change on the 1st day of September, 1999, and on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

##### (B) The Index

Beginning with the first Change Date, my interest rate will be based on an index. The index will be the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year, as made available by the Federal Reserve Board. The index is published in the "Key Money Rates" section of USA TODAY. The most recent index figure available before each Change Date is called the "Current Index." If the index is no longer available, the Lender will choose a new index which is based upon comparable information. The Lender will give me notice of its choice.

##### (C) Calculation of Changes

On each Change Date, the Lender will calculate my new interest rate by adding 2.80 percentage points to the Current Index. This sum will be my new interest rate until the next Change Date, subject to any limits in Section 4(D) below.

The Lender will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I owe at the Change Date in full by September 1, 2014, which is the maturity date of this note. The result of this calculation will be the new amount of my monthly payment.

##### (D) Limits on Interest Rate Changes

My interest rate will never be increased or decreased on any single Change Date by more than two percentage points (2%) from the rate of interest I have been paying for the preceding twelve months. My interest rate will never go below 5.00 percent nor be greater than 12.50 percent.

##### (E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again or until I have fully repaid this note.

##### (F) Notice of Changes

The Lender will mail or deliver to me a notice containing my new interest rate and the amount of my monthly payment. The notice will include information required by law to be given me. Any notice to me may be sent or delivered to the address stated below, or to such other address as I may designate to the Lender in writing.

#### (B) Increases in Principal Balance; Future Advances

The Note provides that the principal amount I owe Lender may increase from time to time. In the event that I make a payment that is insufficient to pay all interest which has been earned since my last payment, Lender will advance an amount equal to the interest earned by Lender but unpaid after application of my payment. The amount advanced by Lender will be added to the principal of the Note and I will pay interest at the Note rate on the amount advanced.

#### (C) Loan Charges

In the event a law which applies to the Note secured by the Mortgage and which sets maximum loan charges is interpreted so that the interest or other loan charges collected or to be collected in connection with the Note would exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower.

#### (D) Monthly Payments for Taxes and Insurance

Under paragraphs 3 and 4 of the Mortgage, Borrower is required to pay all taxes, assessments and hazard insurance premiums and upon request of Lender furnish receipts for such payments. As an alternative to the payment of such amounts directly by Borrower, Lender may at its option require Borrower at any time to make monthly payments to Lender for taxes and insurance.

##### (1) BORROWER'S OBLIGATION TO MAKE MONTHLY PAYMENTS TO LENDER FOR TAXES AND INSURANCE

I will pay to Lender all amounts necessary to pay for taxes, assessments, ground rents (if any), and hazard insurance on the Property and mortgage insurance (if any). I will pay those amounts to Lender unless Lender tells me, in writing, that I do not have to do so, or unless the law requires otherwise. I will make those payments on the same day that my monthly payments are due under the Note.

The amount of each of my payments under this Paragraph D will be the sum of the following:

- (i) One-twelfth of the estimated yearly taxes, assessments and ground rents (if any) on the Property which under the law may be superior to this Mortgage; plus
- (ii) One-twelfth of the estimated yearly premium for hazard insurance covering the Property; plus
- (iii) One-twelfth of the estimated yearly premium for mortgage insurance (if any).

Lender will determine from time to time my estimated yearly taxes, assessments, ground rents and insurance premiums based upon existing assessments and bills, and reasonable estimates of future assessments and bills. (Taxes, assessments, ground rents and insurance premiums will be called "taxes and insurance.") The amounts that I pay to Lender for taxes and insurance under this Paragraph D will be called the "Funds."

If, when payments of taxes and insurance are due, Lender has not received enough Funds from me to make those payments, I will pay to Lender whatever additional amount is necessary to pay the taxes and insurance in full. I must pay that additional amount in one or more payments as Lender may require.

**(2) LENDER'S OBLIGATION CONCERNING BORROWER'S MONTHLY PAYMENTS FOR TAXES AND INSURANCE**

Lender will keep the Funds in a savings or banking institution. If Lender is such an institution then Lender may hold the Funds. Except as described in this Paragraph D, Lender will use the Funds to pay taxes and insurance. Lender will give to me, without charge, an annual accounting of the Funds. That accounting must show all additions to and deductions from the Funds and the reason for each deduction.

Lender may not charge me for holding or keeping the Funds on deposit, for using the Funds to pay taxes and insurance, for analyzing my payments of Funds, or for receiving, verifying and totalling assessments and bills. However, Lender may charge me for these services if Lender pays me interest on the Funds and if the law permits Lender to make such a charge. Lender will not be required to pay me any interest on the Funds unless Lender agrees in writing to pay interest on the Funds.

If Lender's estimates are too high or if taxes and insurance rates go down, the amounts that I pay under this Paragraph D will be too large. If this happens at a time when I am keeping all of my promises and agreements made in the Mortgage, I will have the right to have the excess amount either promptly repaid to me as a direct refund or credited to my future monthly payments of Funds. There will be excess amounts if, at any time, the sum of (a) the amount of Funds which Lender is holding or keeping on deposit, plus (b) the amount of the monthly payments of Funds which I still must pay between that time and the due dates of taxes and insurance, is greater than the amount necessary to pay the taxes and insurance when they are due.

When I have paid all of the amounts due under the Note and under the Mortgage, Lender will promptly refund to me any Funds that are then being held or kept on deposit by Lender. If, under the provisions of the Mortgage, either Lender acquires the Property or the Property is sold, then immediately before the acquisition or sale, Lender will use any Funds which Lender is holding or has on deposit at that time to reduce the amount that I owe to Lender under the Note and under the Mortgage.

**(E) Conflict in Loan Documents**

In the event of conflict between any of the terms of the Mortgage and this Amendment, the terms of this Amendment shall apply. In the event of conflict between any of the terms of this Amendment and the Note, the terms of the Note shall apply.

By signing this Amendment I agree to all of the above.

Don G. Owens

Don G. Owens

Kathy H. Owens

Kathy H. Owens

Inst # 1994-28468  
By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF ALABAMA )  
COUNTY OF Jefferson )

09/19/1994-28468  
09:15 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
006 SNA 22.00

I, the undersigned authority  
that Don G. Owens and spouse, Kathy H. Owens, whose name(s) are  
signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed  
of the contents of this conveyance, they executed the same voluntarily on the day the same bears date.  
Given under my hand and official seal this 1st day of September, 1994

My commission expires: 6/23/97

Ramon Sue Underwood  
Notary Public

STATE OF ALABAMA )  
COUNTY OF )

I, \_\_\_\_\_, a Notary Public in and for said County, in said State, hereby certify  
that \_\_\_\_\_, whose name as \_\_\_\_\_  
of \_\_\_\_\_, a \_\_\_\_\_ is signed to the foregoing conveyance, and who is  
known to me, acknowledged before me on this day that, being informed of the contents of such conveyance, \_\_\_\_\_ as such  
and with full authority, executed the same voluntarily for and as the act of said \_\_\_\_\_  
Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires: \_\_\_\_\_

Notary Public