

NOTICE: THIS MORTGAGE SECURES AN OPEN-END CREDIT PLAN WHICH CONTAINS A PROVISION ALLOWING FOR CHANGES IN THE ANNUAL PERCENTAGE RATE. AN INCREASE 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 NAMES  
HEREIN.

STATE OF ALABAMA  
SHELBY COUNTY

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

995-12661

THIS INDENTURE is made and entered into this 14TH day of APRIL, 1995 by and between BARRY L. BRILLHART AND WIFE, ELIZABETH E. BRILLHART (hereinafter called the "Mortgagor," whether one or more) and AmSouth Bank of Alabama, a national banking association (hereinafter called the "Mortgagee").

## Beck Italia

A. The Secured Line of Credit. **BARRY L. BRILLHART AND ELIZABETH E. BRILLHART** (hereinafter call the "Borrower," whether one or more) ARE now or may become in the future justly indebted to the Mortgagor in the maximum principal amount of **TWENTY FIVE THOUSAND AND 00/100 Dollars (\$25,000.00)** (the "Credit Limit") pursuant to a credit established by the Mortgagor 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 APRIL 14, 1995

"AmSouth Personal Financial Services Line of Credit Agreement" executed by the Borrower in favor of the Mortgagee dated   , 1995, 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   , 1995, 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 repay and repay, amounts from the Mortgagor 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 0.00% 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 9.00%. The annual percentage rate will increase if the Prime rate in effect on the first day of a billing cycle increases, and will decrease if the Prime Rate in effect on the first day of a billing cycle decreases; 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 day of the Credit Agreement, and all sums payable thereunder (including all accrued 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 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 \$25,000.00, 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 Mortgagor 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 Mortgagor 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 Mortgagor under the Credit Agreement, or any extension or renewal thereof; and (e) all advances by the Mortgagor under the terms of this mortgage (the aggregate amount of all such items described in (a) through (e) above being hereinafter collectively call "Debt") and the compliance with all the stipulations herein contained, the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagor, the following described real estate, situated in SHELBY County, Alabama (said real estate being hereinafter called the "Real Estate"):

LOT 95, ACCORDING TO THE MAP OF CHANDALAR SOUTH, SECOND SECTOR, AS RECORDED IN MAP  
BOOK 6 PAGE 12, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA; BEING SITUATED IN SHELBY  
COUNTY, ALABAMA.

Sept 4 1995-12661

05/15/1995-12661  
12:14 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
003 MCD 51.00

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 Mortgagor, its successors and assigns forever. The Mortgagor covenants with the Mortgagor 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, if any, hereinafter described and any other encumbrances expressly set forth above; and the Mortgagor will warrant and forever defend the title to the Real Estate unto the Mortgagor, against the lawful claims of all persons, except as otherwise herein provided.

This mortgage secures an open-end revolving line of credit under which the borrower may borrow and repay, and reborrow and repay, amounts from the Mortgagor from time to time up to maximum principal amount at any one time outstanding not exceeding the Credit Limit. Advances under the Credit Agreement are obligatory. The Credit Agreement does not require that the Borrower make any minimum initial advance or maintain any minimum balance under the line of credit; therefore, at times there may be no outstanding Debt under this mortgage. However, this mortgage shall become effective immediately notwithstanding the lack of any initial advance and shall not be deemed satisfied nor shall title to the Real Estate be divested from the Mortgagor by the payment in full of all the Debt at any one time outstanding, since in each case further borrowings can thereafter be made from time to time by the Borrower under the terms of the Credit Agreement and all such borrowings are to be included in the Debt secured hereby. This mortgage shall continue in effect until all of the Debt shall have been paid in full, the Credit Agreement shall have been terminated, the Mortgagor shall have no obligation to extend any further credit to the Borrower thereunder and an appropriate written instrument in satisfaction of this mortgage, executed by a duly authorized officer of the Mortgagor, shall have been duly recorded in the probate office in which this mortgage is originally recorded. The Mortgagor agrees to execute such an instrument promptly following receipt of the Borrower's written request therefor, provided that all of the conditions set forth above have been fulfilled. Nothing contained herein shall be construed as providing that this mortgage shall secure any advances by the Mortgagor to the Borrower under the credit Agreement in a maximum principal amount at any one time outstanding in excess of 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 the certain mortgage dated   , 19  , and recorded in    Volume   , at page    in the Probate Office of SHELBY County, Alabama.

The Mortgagor hereby authorizes the holder of a prior mortgage encumbering the Real Estate, if any, to disclose to the mortgagor the following information: (1) the amount of indebtedness secured by such mortgage; (2) the amount of such indebtedness that is unpaid; (3) whether any amount owed on such indebtedness is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; and (5) any other information regarding such mortgage or the indebtedness secured thereby which the Mortgagor may request from time to time.

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

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 Mortgagor, 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 Mortgagor, against loss by fire, vandalism, malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement and against loss by such other perils as the Mortgagor may from time to time determine is prudent or is then required by applicable law, with loss, if any, payable to the Mortgagor, 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 Mortgagor agrees in writing that such insurance may be in a lesser amount. Subject to the rights of the holder of the prior mortgage, if any, set forth above, the original insurance policy and all replacements therefor, shall be delivered to and held by the Mortgagor until the Debt is paid in full and the Credit Agreement is terminated. The insurance policy must provide that it may not be cancelled without the insurer giving at least fifteen days' prior written notice of such cancellation to the Mortgagor, subject to the rights of the holder of the prior mortgage. If any, set forth above, the Mortgagor hereby assigns and pledges to the Mortgagor as further security for the payment of the Debt each and every policy of hazard insurance now or hereafter in effect which insures and 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 all 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 Mortgagor and without notice to any person, the Mortgagor may declare the entire Debt due and payable and this mortgage subject to foreclosure, and this mortgage may be foreclosed as hereinafter provided; and, regardless of whether the Mortgagor declares the entire Debt due and payable and this mortgage subject to foreclosure, the Mortgagor may, but shall not be obligated to, insure the Real Estate for its full insurable value (or for such lesser amount as the Mortgagor 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 Mortgagor, such proceeds may be used in repairing or reconstructing the improvements located on the Real Estate.

All amounts spent by the Mortgagor for insurance or for the payment of Liens or for the payment of any amounts under any prior mortgages 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 Credit 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 Mortgagor, this mortgage shall be in default and subject to immediate foreclosure in all respects as provided by law and by the provisions hereof.

Subject to the rights of the holder of the prior mortgage, if any, set forth above, the Mortgagor hereby assigns and pledges to the Mortgagor 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 power of eminent domain. The Mortgagor is hereby authorized on behalf of, and in the name of, the Mortgagor to execute and deliver valid acquaintances for, and appeal from, any such judgments or awards. The Mortgagor may apply all such sums so received, or any part thereof, after the payment of all the Mortgagor's expenses, including court costs and attorneys' fees, on the Debt in such manner as the Mortgagor elects, or, at the Mortgagor'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 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 Mortgagor, upon the sale, lease, transfer, or mortgage by the Mortgagor of all or any part of, or all or any interest in, the Real Estate, including transfer of an interest by contract to sell.

The Mortgagor may make or cause to be made reasonable entries upon and inspections of the Real Estate, provided that the Mortgagor shall give the Mortgagor notice prior to any such inspection specifying reasonable cause therefor related to the Mortgagor'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 Credit 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 Mortgagor's records or at such other address as the Mortgagor shall designate by notice to the Mortgagor as provided herein; and (c) shall be given to the Mortgagor by first class mail to the Mortgagor's address stated herein or to such other address as the Mortgagor 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 Mortgagor 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 agreement 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 Mortgagor to exercise any option to declare the Debt due and payable shall be deemed a waiver of the Mortgagor'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 Mortgagor by one of its officers.

Upon the occurrence of an event of default hereunder, the Mortgagor, upon bill 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: (a) the Debt is paid in full (which Debt includes (i) all advances heretofore or from time to time hereafter made by the Mortgagor 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 part thereof; (iii) all other fees, charges, costs and expenses now or hereafter owing by the Borrower to the Mortgagor 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 Mortgagor under the Credit Agreement, or any extension or renewal thereof; and (v) all advances by the Mortgagor under the terms of this mortgage); (b) the Mortgagor is reimbursed for any amounts the Mortgagor has paid in payment of Liens or insurance premiums or any prior mortgages, and interest thereon; (c) the Mortgagor fulfills all of the Mortgagor'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 thereunder; and (e) an appropriate written instrument in satisfaction of this mortgage has been executed by a duly authorized officer of the Mortgagor and properly recorded; this conveyance shall be null and void. But if: (1) default is made in the payment to the Mortgagor of any sum paid by the Mortgagor under the authority of any provision of this mortgage; (2) the Debt, or any part thereof, or any other indebtedness, obligation liability of the Borrower, the Mortgagor, or any of them, to the Mortgagor remains unpaid at maturity, whether by acceleration or otherwise; (3) the interest of the Mortgagor 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 Mortgagor 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 Mortgagor, 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 Mortgagor shall be authorized to take possession of the Real Estate and, after giving at least twenty-one day's 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 Mortgagor 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, forth, 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 Mortgagor may elect.

The Mortgagor agrees to pay all costs, including reasonable attorneys' fees incurred by the Mortgagor 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 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 Mortgagor 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 Mortgagor, 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 to designate the Borrower(s) or the undersigned shall be construed to refer to the makers of the Credit Agreement and this mortgage, respectively, whether one or more natural person, 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 Mortgagor shall inure to the benefit of the Mortgagor's successors and assigns.

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

*Barry L. Brillhart* \_\_\_\_\_ (Seal)

BARRY L. BRILLHART \_\_\_\_\_ (Seal)

*Elizabeth E. Brillhart* \_\_\_\_\_ (Seal)

ELIZABETH E. BRILLHART \_\_\_\_\_ (Seal)

ACKNOWLEDGMENT 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 BARRY L. BRILLHART AND WIFE, ELIZABETH E. BRILLHART whose name(s) ARE signed to the foregoing instrument, and who ARE known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the date the same bears date.

Given under my hand and official seal, this 14TH day of APRIL, 1995.

*Gail H. Dillard*  
Notary Public

My commission expires: MY COMMISSION EXPIRES JANUARY 08, 1999

NOTARY MUST AFFIX SEAL

ACKNOWLEDGMENT FOR CORPORATION

STATE OF ALABAMA

County

I, the undersigned authority, a Notary Public, in and for said county in said State hereby certify that M. E. J. J. whose name as Branch Officer of TM in South 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 14th day of APRIL, 1995.

*Gail H. Dillard*  
Notary Public

My commission expires: MY COMMISSION EXPIRES JANUARY 08, 1999

NOTARY MUST AFFIX SEAL

This instrument prepared by:

Cindy Schrader  
PO Box 11007  
Birmingham, AL 35286

Inst # 1995-12661

05/15/1995-12661  
12:14 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
003 MCD 51.00