

THOMAS R. AVERETT

CAROLYN A. AVERETT

5 INNISBROOK LANE
SHOAL CREEK, AL 35242

MORTGAGOR

"I" includes each mortgagor above.

This instrument was prepared by

(Name) VELLA SCOTT/BANK OF ALABAMA

(Address) 2340 WOODCREST PL. BHAM. AL. 35209

BANK OF ALABAMA

2340 WOODCREST PLACE

BIRMINGHAM, AL 35209

MORTGAGEE

"You" means the mortgagee, its successors and assigns.

REAL ESTATE MORTGAGE: For value received, I, THOMAS R. AVERETT AND CAROLYN A. AVERETT, HUSBAND AND WIFE

, mortgage, grant, bargain, sell and convey to you, with power of sale, to secure the payment of the secured debt described below, on OCTOBER 12, 1995, the real estate described below and all rights, easements, appurtenances, rents, leases and existing and future improvements and fixtures (all called the "property").

PROPERTY ADDRESS: 5 INNISBROOK LANE SHOAL CREEK Alabama 35242
(Street) (City) (Zip Code)

LEGAL DESCRIPTION: LOT 192-A, ACCORDING TO A RESURVEY OF LOT 174-184, 186-195 SHOAL CREEK AS RECORDED IN MAP BOOK 9, PAGE 113 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA; BEING SITUATED IN SHELBY COUNTY, ALABAMA.

Inst # 1995-31723

11/03/1995-31723
10:21 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE
003 MCD 163.50

located in SHELBY

County, Alabama.

TITLE: I covenant and warrant title to the property, except for MORTGAGE EXECUTED BY THOMAS R. AVERETT AND CARLYN A AVERETT TO BANK OF ALABAMA INST#

SECURED DEBT: This mortgage secures repayment of the secured debt and the performance of the covenants and agreements contained in this mortgage and in any other document incorporated herein. Secured debt, as used in this mortgage, includes any amounts I owe you under this mortgage or under any instrument secured by this mortgage and all modifications, extensions and renewals thereof.

The secured debt is evidenced by (List all instruments and agreements secured by this mortgage and the dates thereof.):

☒ HOME EQUITY NOTE, HOME EQUITY LOAN AMENDMENT, AND ALL OTHER DOCUMENTS NECESSARY TO CLOSE THIS TRANSACTION.

☒ **Future Advances:** All amounts owed under the above agreement are secured even though not all amounts may yet be advanced. Future advances under the agreement are contemplated and will be secured and will have priority to the same extent as if made on the date this mortgage is executed.

☒ **Revolving credit loan agreement dated** OCTOBER 12, 1995. All amounts owed under this agreement are secured even though not all amounts may yet be advanced. Future advances under the agreement are contemplated and will be secured and will have priority to the same extent as if made on the date this mortgage is executed.

The above obligation is due and payable on _____ if not paid earlier.

The total unpaid balance secured by this mortgage at any one time shall not exceed a maximum principal amount of: ONE HUNDRED THOUSAND AND NO/100 * * * * * Dollars (\$ 100,000.00),

plus interest, plus any disbursements made for the payment of taxes, special assessments, or insurance on the property, with interest on such disbursements.

☒ **Variable Rate:** The interest rate on the obligation secured by this mortgage may vary according to the terms of that obligation.

☒ A copy of the loan agreement containing the terms under which the interest rate may vary is attached to this mortgage and made a part hereof.

RIDERS: ☐ Commercial ☒ HOME EQUITY LOAN AMENDMENT ☐

SIGNATURES: By signing below, I agree to the terms and covenants contained in this mortgage (including those on page 2 which are hereby incorporated onto page 1 of this mortgage form) and in any riders described above and signed by me.

X Thomas R. Averett (Seal)
THOMAS R. AVERETT (Seal)

X Carolyn A. Averett (Seal)
CAROLYN A. AVERETT (Seal)

WITNESSES:

ACKNOWLEDGMENT: STATE OF ALABAMA, JEFFERSON County ss:

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that

THOMAS R. AVERETT AND CAROLYN A. AVERETT, HUSBAND AND WIFE

Individual

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 the conveyance, THEY executed the same voluntarily on the day the same bears date.

Corporate

whose name(s) as _____ of the _____ a corporation, signed to the foregoing conveyance and who _____ known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he _____, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 12th day of October, 1995

My commission expires:

MY COMMISSION EXPIRES MARCH 2, 1996

Cynthia P. Bishop
(Notary Public)

ALABAMA

COVENANTS

1. **Payments.** I agree to make all payments on the secured debt when due. Unless we agree otherwise, any payments you receive from me or for my benefit will be applied first to any amounts I owe you on the secured debt (exclusive of interest or principal), second, to interest and then to principal. If partial prepayment of the secured debt occurs for any reason, it will not reduce or excuse any scheduled payment until the secured debt is paid in full.

2. **Claims against Title.** I will pay all taxes, assessments, liens and encumbrances on the property when due and will defend title to the property against any claims which would impair the lien of this mortgage. You may require me to assign any rights, claims or defenses which I may have against parties who supply labor or materials to improve or maintain the property.

3. **Insurance.** I will keep the property insured under terms acceptable to you at my expense and for your benefit. All insurance policies shall include a standard mortgage clause in favor of you. You will be named as loss payee or as the insured on any such insurance policy. Any insurance proceeds may be applied, within your discretion, to either the restoration or repair of the damaged property or to the secured debt. If you require mortgage insurance, I agree to maintain such insurance for as long as you require.

4. **Property.** I will keep the property in good condition and make all repairs reasonably necessary.

5. **Expenses.** I agree to pay all your expenses, including reasonable attorneys' fees if I break any covenants in this mortgage or in any obligation secured by this mortgage. Attorneys' fees include those awarded by an appellate court. I will pay these amounts to you as provided in Covenant 10 of this mortgage.

6. **Default and Acceleration.** If I fail to make any payment when due or break any covenants under this mortgage, any prior mortgage or any obligation secured by this mortgage, you may accelerate the maturity of the secured debt and demand immediate payment and exercise any other remedy available to you. This mortgage gives you the power of sale, which you may also invoke under the circumstances described in the previous sentence. If you invoke the power of sale, you will give notice of the sale by publication once a week for three successive weeks in some newspaper published in the county in which the property or any portion of it is located. This notice will give the time, place and terms of the sale, and a description of the property. After this notice is given, the property will be sold to the highest bidder at public auction at the front door of the County Courthouse of the county in which the notice of sale was published.

7. **Assignment of Rents and Profits.** I assign to you the rents and profits of the property. Unless we have agreed otherwise in writing, I may collect and retain the rents as long as I am not in default. If I default, you, your agent, or a court appointed receiver may take possession and manage the property and collect the rents. Any rents you collect shall be applied first to the costs of managing the property, including court costs and attorneys' fees, commissions to rental agents, and any other necessary related expenses. The remaining amount of rents will then apply to payments on the secured debt as provided in Covenant 1.

8. **Waiver of Homestead.** I hereby waive all right of homestead exemption in the property.

9. **Leaseholds; Condominiums; Planned Unit Developments.** I agree to 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, I will perform all of my duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

10. **Authority of Mortgagee to Perform for Mortgagor.** If I fail to perform any of my duties under this mortgage, you may perform the duties or cause them to be performed. You may sign my name or pay any amount if necessary for performance. If any construction on the property is discontinued or not carried on in a reasonable manner, you may do whatever is necessary to protect your security interest in the property. This may include completing the construction.

Your failure to perform will not preclude you from exercising any of your other rights under the law or this mortgage.

Any amounts paid by you to protect your security interest will be secured by this mortgage. Such amounts will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect on the secured debt.

11. **Inspection.** You may enter the property to inspect if you give me notice beforehand. The notice must state the reasonable cause for your inspection.

12. **Condemnation.** I assign to you the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the property. Such proceeds will be applied as provided in Covenant 1. This assignment is subject to the terms of any prior security agreement.

13. **Waiver.** By exercising any remedy available to you, you do not give up your rights to later use any other remedy. By not exercising any remedy, if I default, you do not waive your right to later consider the event a default if it happens again.

14. **Joint and Several Liability; Co-signers; Successors and Assigns Bound.** All duties under this mortgage are joint and several. If I co-sign this mortgage but do not co-sign the underlying debt I do so only to mortgage my interest in the property under the terms of this mortgage. I also agree that you and any party to this mortgage may extend, modify or make any other changes in the terms of this mortgage or the secured debt without my consent. Such a change will not release me from the terms of this mortgage.

The duties and benefits of this mortgage shall bind and benefit the successors and assigns of either or both of us.

15. **Notice.** Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by certified mail addressed to me at the Property Address or any other address that I tell you. I will give any notice to you by certified mail to your address on page 1 of this mortgage, or to any other address which you have designated.

Any notice shall be deemed to have been given to either of us when given in the manner stated above.

16. **Transfer of the Property or a Beneficial Interest in the Mortgagor.** If all or any part of the property or any interest in it is sold or transferred without your prior written consent, you may demand immediate payment of the secured debt. You may also demand immediate payment if the mortgagor is not a natural person and a beneficial interest in the mortgagor is sold or transferred. However, you may not demand payment in the above situations if it is prohibited by federal law as of the date of this mortgage.

17. **Release.** When I have paid the secured debt in full and all underlying agreements have been terminated, this mortgage will become null and void and you will release this mortgage.

HOME EQUITY LOAN AMENDMENT
(Open-End Revolving Line of Credit with Variable Rate of Interest)

This instrument prepared by:
Vella Scott / Bank of Alabama
2340 Woodcrest Place
Birmingham Alabama 35209

MORTGAGOR:
Thomas R. & Carolyn A. Averett
5 Innisbrook Lane
Shoal Creek Alabama 35242

MORTGAGEE:
Bank of Alabama
1209 Decatur Highway
Post Office Box 340
Fultondale, Alabama 35068

STATE OF ALABAMA)
COUNTY OF Shelby)

NOTICE: The Mortgage and this Amendment secure an adjustable rate home equity line of credit which contains provisions allowing for changes in the interest rate and allowing for sums to be borrowed, repaid and then reborrowed, all subject to the terms of the Home Equity Agreement between the Mortgagor and the Mortgagee. Increases in the interest rate may result in higher payments or a larger final payment.

This Home Equity Loan Amendment to Mortgage, dated October 12, 1995, amends and supplements the Mortgage dated October 12, 1995 between Bank of Alabama ("Mortgagee") and the undersigned Mortgagor. This Amendment covers the property (as such term is defined in the Mortgage).

As used in this Amendment, the Agreement shall mean that certain Equity Agreement made and entered into between the Mortgagor and the Mortgagee on October 12, 1995, including any amendment or modification to such Agreement and any extension or renewal of such Agreement or the indebtedness advanced thereunder.

The Mortgagee and the Mortgagor do hereby agree to amend the Mortgage in the following respects:

1. The Agreement between the Mortgagee and the Mortgagor is an open-end credit agreement under which the Mortgagor may borrow, repay and reborrow from the Mortgagee from time to time so long as the aggregate unpaid principal of such loans outstanding from time to time does not exceed the sum of \$ 100,000.00.
2. The rate of interest payable on loans made under the Agreement is a variable interest rate which may change daily based on changes in the base rate (as defined in the Agreement). The beginning rate of interest is 8.75 %.
3. The Agreement is an open-end credit agreement which will continue in effect until terminated by the Mortgagee or the Mortgagor pursuant to the terms of the Agreement, and as a result, there is no fixed maturity date for the loans made under the Agreement; provided, however, that if any amount shall remain unpaid under the Agreement on the date (the "maturity date") which is twenty (20) years after the date of the Agreement, then all such sums, whether principal, interest, or other charges, shall then be due and payable in full on the maturity date.
4. The Mortgage shall continue in full force and effect until all of the following events shall occur: (a) there is no outstanding indebtedness or other obligation secured by the Mortgage and (b) there shall be no remaining or enforceable commitment or agreement by the Mortgagee to make advances, incur obligations or otherwise give value under any contract, including, but without limitation, the Agreement. The Mortgagee and the Mortgagor agree that this shall result in the Mortgage continuing in full force and effect until the events described in the first sentence of this paragraph shall have occurred, even though from time to time and for extended periods of time there may be no outstanding indebtedness owed to the Mortgagee under the Agreement and no other outstanding indebtedness hereby secured, it being the intention of the Mortgagee and the Mortgagor that this Mortgage upon the property conveyed to the Mortgagee shall remain in full force and effect and shall secure all indebtedness owing at any time and from time to time under the Agreement whether now owed or hereafter incurred at any time prior to termination of the Mortgage pursuant to the occurrence of the events described in the first sentence of this paragraph. Within the time required by law, the Mortgagee agrees to file a properly executed and notarized satisfaction of the Mortgage, or otherwise cause the Mortgage to be satisfied in accordance with other applicable provisions of law, upon receipt of a written request to satisfy the Mortgage signed by the undersigned Mortgagor and by all other persons (if any) who have a right to require the Mortgagee to extend value.
5. In the event of any inconsistency between the terms of the Mortgage and of this Amendment, the provisions in this Amendment shall control. In that regard, and without limiting the generality of the foregoing, it is expressly understood and agreed between the Mortgagee and the Mortgagor that the acceleration of the maturity of amounts owing under the Agreement may be made only upon the express terms of the Agreement, and it is further understood that the Mortgage will be satisfied and terminated only as provided for in paragraph 4 of this Amendment.

IN WITNESS WHEREOF, the Mortgagee and the undersigned Mortgagor have entered into this Amendment as of the date and year specified above.

Thomas R. Averett Mortgagor

Carolyn A. Averett Mortgagor

BANK OF ALABAMA

By: [Signature]
Its: Senior Vice President

STATE OF Alabama)
COUNTY OF Jefferson)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that James Cooper, Jr. whose name as Senior Vice-President of Bank of Alabama, 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 such instrument, he/she, in his/her capacity as such Officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 12th day of October, 1995.

[Signature]
Notary Public

[NOTARIAL SEAL]

My commission expires: 10-6-96

STATE OF Alabama)
COUNTY OF Jefferson)

I, the undersigned, hereby certify that Thomas R. & Carolyn A. Averett 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 the instrument, he/she/they executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 12th day of Oct, 1995.

[Signature]
Notary Public

[NOTARIAL SEAL]

My commission expires: MY COMMISSION EXPIRES MARCH 2, 1996

11/03/1995-31722
10:21 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
003 NCD 163.50