LOG # 5665

95-277-902

SOUTHTRUST HOME EQUITY LOAN LINE REAL ESTATE MORTGAGE (Open End Mortgage)

BA62100-REV. 10-88

SS-96-3530

Mortgagors (last name first):

DAY, SHAWN G.

DAY, LISA S.

2957 RIVERWOOD TERRACE

Mailing Address

Birmingham, AL 35242

City State Zip

Mortgagee:

SouthTrust Bank of Alabama, National Association

P.O. Box 2554

Mailing Address

Birmingham, AL 35290-0100

City State Zip

1997-01326

01/13/1997-01326

CERTIFIED

This instrument was prepared by:

Stephen A. Pierce - Home Mortgage Services

P.O. Box 12564

Birmingham, AL 35202

THE STATE OF ALABAMA

SHELBY County

KNOW ALL MEN BY THESE PRESENTS: That whereas

SHAWN G. DAY, HUSBAND and LISA S. DAY, WIFE

(whether one or more, hereinafter called "Borrowers") have entered into a SouthTrust Home Equity Loan Line Agreement, Note and Disclosure Statement (hereinafter called "the Agreement") of even date herewith with SouthTrust Bank of Alabama, National Association (hereinafter called "Mortgagee"); that the Agreement is an open end credit agreement under which the Borrowers may borrow, repay, and re-borrow, from Mortgagee from time to time so long as the aggregate unpaid principal balance of such loans outstanding from time to time does not exceed the sum of $ 20,000.00 ; that the rate of interest payable on such loans made under the Agreement is a variable interest rate which may change each month based on changes in the "index" (as defined in the Agreement); and that the Agreement will continue in effect until terminated in accordance with its terms even though from time to time there may be no loans outstanding to the Borrowers under the Agreement.

NOW, THEREFORE, in consideration of the Agreement and in order to secure the payment of all loans now or hereafter made to or at the request of the Borrowers named above, or, if more than one Borrower is named, all loans now or hereafter made to or at the request of any one or more of the Borrowers, and any extensions or renewals of any such loans (including any agreement or instrument hereafter given to evidence the Borrower's obligation to repay any of such indebtedness, or any extension or renewal thereof), the payment of all interest and finance charges on such loans whenever incurred, the payment and performance of all obligations of the Borrowers under the Agreement, (including any amendment, modification, extension, or supplement of or to the Agreement), and compliance with all the covenants and stipulations hereinafter contained, the undersigned

SHAWN G. DAY, HUSBAND and LISA S. DAY, WIFE

(whether one or more, hereinafter called "Mortgagors") do hereby assign, grant, bargain, sell and convey unto Mortgagee the following described real property situated in SHELBY County, State of Alabama, viz:

LOT D, BLOCK 18, ACCORDING TO THE AMENDED SURVEY OF RIVERWOOD FOURTH SECTOR AS RECORDED IN MAP BOOK 8, PAGE 136, IN THE PROBATE OFFICE OF SHELBY COUNTY ALABAMA.

SUBJECT TO MORTGAGE TO FIRST COMMERCIAL MORTGAGE CORPORATION, DATED MAY 7, 1993, RECORDED AS INSTRUMENT #1993-15535.

FILE ALL PAPERS IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

SUBJECT TO EASEMENTS, RIGHTS OF WAY, RESTRICTIONS AND COVENANTS OF RECORD.

SD LD

 Initials

MTA

together with all rents and other revenues thereof and all rights, privileges, easements, tenements, interests, improvements and appurtenances thereunto belonging or in anywise appertaining, including any after-acquired title and easements and all rights, title and interest now or hereafter owned by Mortgagors in and to all buildings and improvements, storm and screen windows and doors, gas, steam, electric, solar and other heating, lighting, ventilating, air-conditioning, refrigerating and cooking apparatus, elevators, plumbing, sprinkling, smoke, fire, and intrusion detection devices, and other equipment and fixtures now or hereafter attached or appertaining to said premises, all of which shall be deemed to be real property and conveyed by this mortgage, and all of which real property, equipment and fixtures are sometimes hereinafter called the "mortgaged property."

TO HAVE AND TO HOLD the same and every part thereof unto Mortgagee, its successors and assigns forever.

For the purpose of further securing the payment of said indebtedness Mortgagors warrant, covenant and agree with Mortgagee, its successors and assigns, as follows:

1. That they are lawfully seized in fee and possessed of the mortgaged property and have a good right to convey the same as aforesaid, that they will warrant and forever defend the title against the lawful claims of all persons whomsoever, and that the mortgaged property is free and clear of all encumbrances, easements and restrictions not herein specifically mentioned.

2. That they will pay all taxes, assessments, or other liens taking priority over this mortgage when imposed upon the mortgaged property, and should default be made in the payment of the same, or any part thereof, Mortgagee may pay the same (but Mortgagee is not obligated to do so). If the mortgaged property or any part thereof is a unit in a condominium or a planned unit development, Mortgagors shall perform all of Mortgagor's obligations under the declaration or covenants creating or covering the condominium or planned unit development, the bylaws and regulations of the condominium or planned unit development, and constituent documents. Should Mortgagors default in any of such obligations, Mortgagee may perform Mortgagors' obligations (but Mortgagee is not obligated to do so).

3. That they will keep the buildings on the mortgaged property continuously insured in such amounts, in such manner and with such companies as may be satisfactory to Mortgagee against loss by fire (including so-called extended coverage), wind and such other hazards (including flood and water damage) as Mortgagee may specify from time to time, with loss, if any, payable to Mortgagee, and will deposit with Mortgagee policies of such insurance or, at Mortgagee's election, certificates thereof, and will pay the premiums therefor as the same become due. Mortgagors shall have the right to provide such insurance through a policy or policies independently obtained and paid for by Mortgagors or through an existing policy. Mortgagee may, for reasonable cause, refuse to accept any policy of insurance obtained by Mortgagors. Mortgagors shall give immediate notice in writing to Mortgagee of any loss or damage to the mortgaged property from any cause whatever. If Mortgagors fail to keep said property insured as above specified, Mortgagee may insure said property (but Mortgagee is not obligated to do so) for its insurable value against loss by fire, wind and other hazards for the benefit of Mortgagors and Mortgagee or for the benefit of Mortgagee alone, at Mortgagee's election. The proceeds of such insurance shall be paid by the insurer to Mortgagee, which is hereby granted full power to settle and compromise claims under all policies, to endorse in the name of Mortgagors any check or draft representing the proceeds of any such insurance, and to demand, receive and give receipt for all sums becoming due thereunder. Said insurance proceeds, if collected, may be credited on the indebtedness secured by this mortgage, less costs of collection, or may be used in repairing or reconstructing the premises on the mortgaged property, at Mortgagee's election. Any application of the insurance proceeds to repairing or reconstructing premises on the mortgaged property shall not extend or postpone the due date of any installment payments of the indebtedness hereby secured or reduce the amount of such installments.

4. That commencing upon written request by Mortgagee and continuing until the indebtedness secured hereby is paid in full and the Agreement is terminated, Mortgagors will pay to Mortgagee concurrently with, and on the due date of, payments on the indebtedness hereby secured a sum equal to the ground rents, if any, next due on the mortgaged property, plus the premiums that will next become due and payable on policies of fire and other hazard insurance covering the mortgaged property, plus water rents, fire district charges, taxes and assessments next due on the mortgaged property (all as estimated by Mortgagee), less any sums already paid to Mortgagee therefor, divided by the number of months or other payment periods to elapse before one month or payment period prior to the date when such ground rents, premiums, water rents, fire district charges, taxes and assessments will become due, such sums to be held by Mortgagee in trust, to pay said ground rents, premiums, water rents, fire district charges, taxes and assessments. All payments mentioned in the preceding sentence and the payment to be made on the indebtedness secured hereby shall be added together and the aggregate amount thereof shall be paid by Mortgagors each month or other payment period in a single payment to be applied by Mortgagee to the following items in the order set forth: (a) ground rents, taxes, water rents, fire district charges, assessments, fire and other hazard insurance premiums; (b) interest on the indebtedness secured hereby; and (c) the balance, if any, shall be applied toward the payment of the sum hereby secured. Any deficiency in the amount of such aggregate monthly or other periodic payments shall constitute a default under this mortgage. Any excess funds accumulated under this paragraph after payment of the items herein mentioned shall be credited in calculating the monthly or other periodic payments of the same nature required hereunder in the subsequent year; but if the actual amount of any such item shall exceed the estimate therefor, Mortgagors shall without demand forthwith make good the deficiency. Failure by Mortgagors to do so before the due date of such item shall be a default hereunder. If the mortgaged property is sold under foreclosure or is otherwise acquired by Mortgagee after default, any remaining balance of the accumulations under this paragraph shall be credited to the principal of the secured indebtedness as of the date of the foreclosure sale or as of the date the property is otherwise acquired by Mortgagee after default, any remaining balance of the accumulations under this paragraph shall be credited to the principal of the secured indebtedness as of the date of the foreclosure sale or as of the date the property is otherwise acquired.

5. That they will take good care of the mortgaged property and will not commit or permit any waste thereon or thereof, and that they will keep the same repaired and at all times will maintain the same in as good condition as it now is, reasonable wear and tear alone excepted. If Mortgagors fail to make repairs to the mortgaged property, Mortgagee may make such repairs at Mortgagors' expense (but Mortgagee is not obligated to do so). Mortgagee, its agents and employees, may enter the mortgaged property and any improvements thereon at any reasonable time for the purpose of inspecting or repairing such improvements.

6. That all amounts expended by Mortgagee for insurance or for the payment of taxes or assessments or to discharge liens on the mortgaged property or other obligations of Mortgagors or to make repairs to the mortgaged property or any improvements thereon shall become a debt due Mortgagee, shall be payable at once without demand upon or notice to any person, shall bear interest at the rate of interest payable on advances under the Agreement, or if the rate specified would be unlawful, at the rate of 8% per annum from the date of payment by Mortgagee, and such debt and the interest thereon shall be secured by this mortgage. Upon failure of Mortgagors to reimburse Mortgagee for all amounts so expended, at the election of Mortgagee and with or without notice to any person, Mortgagee may declare the entire indebtedness secured by this mortgage due and payable and may foreclose this mortgage as hereinafter provided or as provided by law.

7. That no delay or failure of Mortgagee to exercise any option to declare the maturity of any debt secured by this mortgage shall be taken or deemed as a waiver of the right to exercise such option or to declare such forfeiture either as to past or present default on the part of Mortgagors, and that the procurement of insurance or payment of taxes or other liens or assessments or obligations by Mortgagee shall not be taken or deemed as a waiver of the right to accelerate the maturity of the indebtedness hereby secured by reason of the failure of Mortgagors to procure such insurance or to pay such taxes, liens, assessments or obligations, it being agreed by Mortgagors that no terms or conditions contained in this mortgage can be waived, altered or changed except by a writing signed by Mortgagee.

8. That those Mortgagors who are obligated to pay the indebtedness hereby secured will well and truly pay and discharge such indebtedness as it shall become due and payable, whether such indebtedness is now owed or hereafter incurred.

9. That if default shall be made in the payment of any of the indebtedness hereby secured, or in the performance of any of the terms or conditions of this mortgage, Mortgagee may proceed to collect the rent, income and profits from the mortgaged property, either with or without the appointment of a receiver (to which appointment Mortgagors hereby consent), and Mortgagee may notify the lessees or other payors thereof to make payment directly to Mortgagee. Any rents, income and profits collected by Mortgagee prior to foreclosure of this mortgage, less the costs of collecting the same, including any real estate or property management commissions and attorney's fees incurred, shall be credited first to advances made by Mortgagee and the interest thereon, then to interest due on the indebtedness hereby secured, and the remainder, if any, shall be applied toward the payment of the principal sum hereby secured.

10. That if all or any part of the mortgaged property or any interest therein is sold, assigned, transferred or conveyed by Mortgagors, or any of them, without Mortgagee's prior written consent, excluding only, (a) the creation of a purchase money security interest for household appliances, (b) a transfer by devise, descent or by operation of law upon the death of a joint tenant, or (c) the grant of any leasehold interest of one year or less (including all mandatory or optional renewal periods) not containing an option to purchase, Mortgagee may, at Mortgagee's option, declare all indebtedness secured by this mortgage to be due and payable immediately with or without notice to Mortgagors. Mortgagee may condition its consent to any such transfer of possession of, or an interest in, the mortgaged property upon the transferee's agreeing to pay a greater rate of interest on all or any part of the indebtedness secured by this mortgage or to adjust the payment schedule of all or any part of the indebtedness secured by this mortgage, upon Mortgagee's approval of the creditworthiness of the transferee, and upon the transferee's payment to Mortgagee of a reasonable transfer or assumption fee. Upon breach by Mortgagors, or any of them, of the covenants herein contained, Mortgagee may, at its election, proceed to foreclose this mortgage as hereinafter provided or as provided by law.

11. That all the covenants and agreements of Mortgagors herein contained shall extend to and bind their respective heirs, executors, administrators, successors and assigns, and that such covenants and agreements and all options, rights, privileges and powers herein given, granted or secured to Mortgagee shall inure to the benefit of the successors and assigns of Mortgagee.

12. That the provisions of this mortgage and the Agreement secured hereby are severable, and that the invalidity or unenforceability of any provision of this mortgage or of such Agreements shall not affect the validity and enforceability of the other provisions of this mortgage or of such Agreements. The remedies provided to Mortgagee herein are cumulative with the rights and remedies of Mortgagee at law and in equity, and such rights and remedies may be exercised concurrently or consecutively. A carbon or photostatic copy of this mortgage may be filed as a financing statement in any public office.

This mortgage shall continue in full force and effect until all of the indebtedness (including future advances) and other obligations secured by this mortgage shall have been paid in full. Mortgagee shall have no further commitment or agreement to extend any credit to the Borrowers, or otherwise incur any obligation or give value, under the Agreement, and Mortgagee shall have executed and delivered to Mortgagors a release or satisfaction of this mortgage in recordable form, even though from time to time and for extended periods of time there may be no indebtedness owed to Mortgagee under the Agreement described above and no other indebtedness hereby secured, it being the intention of the Mortgagors that this mortgage and the title to the mortgaged premises hereby conveyed to Mortgagee shall remain in full force and effect and shall secure all indebtedness described above in this mortgage whether now owed or hereafter incurred at any time prior to termination of this mortgage by the means just described. Mortgagee agrees to execute and deliver to Mortgagors a release or satisfaction of this mortgage within a reasonable time after written demand therefor at any time there is no indebtedness secured by this mortgage and no obligation on the part of Mortgagee to extend any credit to the Borrowers under the Agreement. Upon termination of this mortgage by the means hereinabove described, the grant and conveyance herein made shall be and become null and void; but should default be made in the payment of any indebtedness hereby secured or any renewals or extensions thereof or any part thereof or should any interest or finance charge thereon remain unpaid at maturity, or should default be made in the repayment of any sum expended by Mortgagee under the authority of any provision of this mortgage, or should the interest of Mortgagee in the mortgaged property become endangered by reason of the enforcement of any lien or encumbrance thereon, or should a petition to condemn any part of the mortgaged property be filed by any authority, person or entity having power of eminent domain, or should any law, either state or federal, be passed imposing or authorizing the imposition of a specific tax upon this mortgage or the indebtedness hereby secured or permitting or authorizing the deduction of any such tax from the principal or interest secured by this mortgage or by virtue of which any tax or assessment upon the mortgaged property shall be charged against the owner of this mortgage, or should at any time any of the covenants contained in this mortgage or in any Agreement secured hereby be declared invalid or unenforceable by any court of competent jurisdiction, or should Mortgagors fail to do and perform any other act or thing herein required or agreed to be done, then in any of said events the whole of the indebtedness hereby secured, or any portion or part thereof which may at said date not have been paid, with interest thereon, shall at once become due and payable and this mortgage subject to foreclosure at the option of Mortgagee, notice of the exercise of such option being hereby expressly waived by Mortgagors, and Mortgagee shall have the right to enter upon and take possession of the mortgaged property and after or without taking such possession to sell the same before the Court House door of the County (or the division thereof) where said property, or any substantial part of said property, is located, at public outcry for cash, after first giving notice of the time, place and terms of such sale by publication once a week for three consecutive weeks prior to said sale in some newspaper published in said County; and upon the payment of the purchase price, Mortgagee or the auctioneer at said sale is authorized to execute to the purchaser for and in the name of Mortgagors a good and sufficient deed to the property sold. Mortgagee shall apply the proceeds of said sale or sales under this mortgage as follows: First, to the expenses of advertising, selling and conveying, including a reasonable attorneys' fee if the unpaid debt after default exceeds $300; second, to the payment of any amounts that may have been expended or that may then be necessary to expend in paying insurance, taxes and other encumbrances, with interest thereon; third, to the payment of the indebtedness hereby secured and interest and finance charges thereon in such order as Mortgagee may elect, whether such debts shall or shall not have fully matured at the date of said sale; and fourth, the balance, if any, to be paid over to Mortgagors or to whomsoever then appears of record to be the owner of Mortgagors' interest in said property. Mortgagee may bid and become the purchaser of the mortgaged property at any foreclosure sale hereunder. Mortgagors hereby waive any requirement that the mortgaged property be sold in separate tracts and agree that Mortgagee may, at its option, sell said property en masse regardless of the number of parcels hereby conveyed.

IN WITNESS WHEREOF, each of the undersigned

SHAWN G. DAY and LISA S. DAY

has hereunto set his or her signature and seal this 13TH day of NOVEMBER 1996

Shawn G. Day (SEAL)
SHAWN G. DAY

Lisa S. Day (SEAL)
LISA S. DAY

_______________ (SEAL)

_______________ (SEAL)

 SD LS Initials

THE STATE OF ALABAMA, **INDIVIDUAL ACKNOWLEDGMENT**

JEFFERSON COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that

SHAWN G. DAY and LISA S. DAY

whose name 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, have executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 13TH day of NOVEMBER, 1996

(Notarial Seal) Susan Katherine Lee Notary Public

My Commission Expires March 20, 1998

THE STATE OF ALABAMA, **INDIVIDUAL ACKNOWLEDGMENT**

_______________ COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that _______________

____

whose name _______ 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, _______ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _______ day of _______, _______.

(Notarial Seal) _______________ Notary Public

Inst # 1997-01326

01/13/1997-01326
03:07 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 NCD 46.00

PLEASE RETURN TO

____

____

____

SOUTHTRUST HOME EQUITY LOAN LINE REAL ESTATE MORTGAGE

THE STATE OF ALABAMA

_______________ COUNTY, Office of the Judge of Probate..

I hereby certify that the within mortgage was filed in this office for record on the _______________ day of _______________, _______ at _______ o'clock _____ M., and duly recorded in Volume _______________ of Mortgages, at page _______________, and examined.

_______________ Judge of Probate

 SD LS Initials