Record and Return to:
Professional Settlement Services
4425 Randolph Road, Suite 110
Charlotte, NC 28211
Telephone: 888-442-2900

~~After recording mail to:~~
Prepared By: DAVE Andress
Providian National Bank
c/o Mortgage Processing
P.O. Box 9120
Pleasanton, CA 94566
Ref. No. 9911000224 / 1066688

Inst # 1999-21875
05/25/1999-21875
12:26 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
009 MMS 125.55

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

MORTGAGE

THIS MORTGAGE ("Mortgage") is made on May 14, 1999 by JAMES M. DANIELS AND WIFE, MARTHA H. DANIELS, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP ("Borrower") whose address is 1138 Dearing Downs Drive, Helena, AL 35080, and Providian National Bank, which is organized and existing under the laws of the United States of America, and whose address is 295 Main Street, Tilton, NH 03276 ("Lender"). Borrower owes Lender the principal sum of Sixty Four Thousand Six Hundred Fifty Six and 00/100 Dollars (U.S. $64,656.00) (the "Credit Limit") as evidenced by Borrower's Providian National Bank Account Agreement dated even date herewith ("Agreement"). This Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Agreement, with interest thereon, and all renewals, future advances, extensions and modifications of the Agreement; (b) the payment of all other sums, with interest thereon, advanced to protect the security of this Mortgage; and (c) the performance of Borrower's covenants and agreements under this Mortgage and the Agreement. For this purpose, Borrower irrevocably does hereby mortgage, warrant, grant and convey to Lender, the following described property located in SHELBY County, State of Alabama which has the address of 1138 Dearing Downs Drive, Helena, Alabama 35080 ("Property Address") and which is more particularly described in Exhibit "A" attached hereto and made a part hereof;

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing are hereinafter referred to as the "Property."

Borrower and Lender covenant and agree as follows:

1. TITLE. Borrower warrants and covenants that Borrower has good and marketable title to the Property and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower will defend title to the Property against all claims and demands, subject to any encumbrances of record.

2. ADJUSTABLE MORTGAGE LOAN PROVISIONS. The Agreement contains provisions which permit (a) increases and decreases to the rate of interest provided in the Agreement on a monthly basis prior to the Conversion Date (as defined herein) and thereafter; (b) increases and decreases to the rate of interest and payments of principal and interest on a semi-annual basis; and (c) a limitation on increases and

decreases to said interest rate and monthly payment amount. Reference is made to the Agreement for a complete description of the variable rate terms of the indebtedness secured by this Mortgage.

3. OPEN-END CREDIT. The Agreement provides that for the first 10 years after the date of the Agreement, the credit secured by the Property is an open-end revolving line of credit. At the end of approximately 10 years from the date of the Agreement (the "Conversion Date"), any principal amounts owed and outstanding under the Agreement will convert to an adjustable rate, adjustable payment, non-revolving fully amortizing 5 year term loan, as provided in the Agreement, with a maturity date of May 14, 2014. All outstanding interest is due and payable no later than the Conversion Date. The Mortgage will continue to secure payment of all sums due and payable under the terms of the Agreement. Borrower's obligations under the Agreement shall be satisfied, and this Mortgage shall be released and a satisfaction of mortgage shall be furnished to Borrower upon (i) receipt by Lender of a written request from Borrower to close the Providian National Bank Account (the "Account") evidenced by the Agreement; and (ii) payment in full of the indebtedness secured hereby.

4. FUTURE ADVANCES. The lien of the Mortgage secures the existing indebtedness under the Agreement and any future advances made under the Agreement or the Mortgage plus interest thereon, attorneys' fees and costs. All advances will have the same lien priority as the advance initially made under the Agreement. The unpaid balance of the revolving line of credit under the Agreement may at certain times be zero; the interest of Lender herein will remain in full force and effect notwithstanding a zero balance at any time.

5. RIDERS TO THIS MORTGAGE. If one or more riders are executed by Borrower and recorded together with this Mortgage, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were a part of this Mortgage. [Check applicable box(es)]

☐ Condominium/Planned Unit Development Rider ☐ 1-4 Family Rider

NOTICE: See the attached pages which are incorporated herein by this reference into this Mortgage for additional agreements, terms and provisions contained in this Mortgage.

REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER SUPERIOR MORTGAGES OR DEEDS OF TRUST

Borrower and Lender request the holder of any mortgage, deed of trust or other encumbrances with a lien which has priority over this Mortgage to give Notice to Lender, at Lender's address set forth on page one of this Mortgage of any default under the superior encumbrance and of any sale or other foreclosure action.

J.R.G.
M.D.D.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

Dated: 5/14/99 James M. Daniels
James M. Daniels

Dated: 5/14/99 Martha H. Daniels
Martha H. Daniels

STATE OF ALABAMA, COUNTY OF Shelby, to wit:

I, the undersigned, a Notary Public in and for said county and state, do hereby certify that James M. Daniels and Martha H. Daniels

whose name 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 the foregoing instrument, he/she/they executed the same voluntarily on the day the same bears date.

Given under my hand this 14th day of May, A.D. 1999.

Notary Public

My Commission expires: MY COMMISSION EXPIRES DEC. 23, 2002

ADDITIONAL TERMS OF MORTGAGE

A. IMPOUND ACCOUNTS. So long as Borrower pays, prior to delinquency, all yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over the Mortgage and ground rents on the Property, if any, plus all premiums for hazard insurance and mortgage insurance, if any, Lender waives the requirements of the following. Thereafter, until the Agreement is paid in full, Borrower will pay to Lender when monthly payments are due under the Agreement, a sum ("Funds") for: (a) one-twelfth yearly taxes and assessments which may attain priority over this Mortgage as a lien on the Property; (b) one-twelfth yearly leasehold payments or ground rents on the Property, if any; (c) one-twelfth yearly hazard or property insurance premiums; (d) one-twelfth yearly flood insurance premiums, if any; (e) one-twelfth yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount allowed by law. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless applicable law requires interest to be paid, Lender is not required to pay Borrower any interest or earnings on the Funds. Lender will give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Mortgage.

If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower will pay to Lender the amount necessary to make up the deficiency. Borrower will make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums and closing of the account secured by this Mortgage, Lender will promptly refund to Borrower any Funds held by Lender. If Lender acquires or sells the Property, Lender, prior to the acquisition or sale of the Property, will apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Mortgage.

B. LIENS; PRESERVATION OF PROPERTY. Borrower will perform all of its obligations under any security agreement with a lien which has priority over this Mortgage, including making payments when due. Borrower will pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments, or ground rents, if any. Borrower will keep the Property in good condition and repair and will not commit waste or permit impairment or deterioration of the Property or use it in a destructive manner and shall comply with any lease provisions if this Mortgage is a leasehold. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property. Lender may make or cause to be made reasonable entries upon and inspection of the Property, including, without limitation, for

M.L.D.

the purpose of conducting environmental inspections and audits. If Borrower is in default, or if any proceeding is commenced which materially affects Lender's interest in the Property, or the Property is damaged, Lender may without notice to or demand on Borrower make such appearances, advance such sums, and take such actions as Lender deems necessary or advisable to protect Lender's interest. Any amounts which Lender advances on Borrower's behalf will be added to Borrower's indebtedness and this Mortgage shall from the date thereof secure the repayment of such advances with interest.

C. INSURANCE. Borrower will maintain and pay for property damage and flood (if required) insurance on the improvements now existing or hereafter erected on the Property as required by the Agreement. In the event of loss, Borrower will give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, insurance proceeds will be applied to restore or repair the Property damaged if economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds will be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower and such application will not extend or postpone the due date of the monthly payments due under the Agreement or change the amount of the payments. If Borrower abandons the Property, or does not answer within 30 days after the date the notice is given by Lender to Borrower that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not the sums are then due and such application will not extend or postpone the due date of the monthly payments due under the Agreement or change the amount of the payments. If Lender acquires the Property, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition will pass to Lender to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

D. CONDEMNATION. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and will be paid to Lender and will be applied to the sums secured by this Mortgage whether or not the sums are then due and such application will not extend or postpone the due date of any payments under the Agreement. If Borrower abandons the Property, or does not answer within 30 days after the date notice is given by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, then Lender can collect and apply the proceeds, at its option, either to restore or repair the Property or to the sums secured by this Mortgage, whether or not the sums are then due and such application will not extend or postpone the due date of any payments under the Agreement.

E. DEFAULT: Borrower will be in default hereunder if Borrower fails to meet the repayment terms in the Agreement or Borrower's action or inaction adversely affects the Property or Lender's rights in the Property, including, but not limited to:

(a) failure to maintain required insurance on the Property;
(b) Borrower's transfer of the Property;
(c) failure to maintain the Property, or use of it in a destructive manner;
(d) commission of waste;
(e) failure to pay taxes on the Property or otherwise fail to act and thereby cause a lien to be filed against the Property that is senior to this lien;
(f) death of all Borrowers;

(g) the Property is taken through eminent domain;
(h) a judgment is filed against Borrower and subjects Borrower and the Property to action that adversely affects Lender's interest;
(i) a prior lienholder forecloses on the Property and as a result, Lender's interest is adversely affected; or
(j) Borrower engages in fraud or material misrepresentation, in connection with any phase of this home equity line of credit.

If Borrower is in default, Lender has all the remedies provided under the Agreement and this Mortgage and by law, including, without limitation, terminating the Account, requiring Borrower to pay the entire outstanding balance in one payment, charging Borrower any fees related to the collection of the amount owing, and for protection of the Property including, without limitation, costs and expenses incurred in connection with environmental inspections and audits or in enforcing the remedies provided for in this Mortgage.

F.

1. FORECLOSURE. In the event of a default, Lender may immediately commence foreclosure proceedings against the Property through judicial proceeding, pursuant to applicable law and proceed to sell the Property or to cause the same to be sold in accordance with said statutes in a single parcel or in several parcels at Lender's option. Lender will apply sale proceeds derived from a foreclosure sale, first, to all reasonable costs; then to sums secured by the Mortgage; and then to the persons legally entitled to it. "Costs" include attorneys' fees (including fees for attorneys employed by us or our agents), Mortgagee's fees, expenses of attempted collection, protecting the Property, including, without limitation, costs and expenses incurred in connection with environmental inspections and audits, providing insurable title to a purchaser, and other expenses Lender incurs to enforce its rights under the Agreement or the Mortgage. If Lender has not acted under this section, Lender may be required to advance funds to cover Borrower's transactions even if Borrower is in default. Borrower hereby grants to Lender a POWER OF SALE; and, consequently, Lender has the power to sell the Property in the event of a default without resort to judicial proceedings, pursuant to applicable law.

2. BORROWER'S RIGHT TO REINSTATE. Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued within ninety (90) days following the service of a summons on Borrower if: (a) Borrower pays Lender all sums which would be then due under this Mortgage, and the Agreement which it secures including all advances, had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in Paragraph E hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred. However, this right to reinstate may only be exercised by Borrower once every five years and shall not apply in the case of acceleration under Paragraph L.

G. LIEN ON RENTS. To the extent allowed under applicable law, as additional security hereunder, Borrower hereby grants to Lender a lien on the rents of the Property, provided that prior to acceleration

J.M.D.
M.L.D.

of the Mortgage or abandonment of the Property, Borrower can collect and retain such rents as they become due and payable. Upon acceleration of the Mortgage or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver will be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver will be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, any premium on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver are liable to account only for those rents actually received.

H. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of Paragraph K. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Agreement: (a) is co-signing this Mortgage only to mortgage and warrant such Borrower's interest in the Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Agreement without that Borrower's consent.

I. NOTICES. Except as required by applicable law, notices to Lender or Borrower shall be given in the manner provided in the Agreement.

J. GOVERNING LAW, SEVERABILITY. Subject to principles governing choice of law, this Mortgage is made pursuant to, and shall be construed and governed by, the laws of the United States applicable to national banks, and, where no such federal laws or regulations apply, by the laws of the State of New Hampshire, and the *in rem* rights, remedies and procedures of the state in which the Property is located and by the rules and regulations promulgated thereunder. If any paragraph, clause or provision of this Mortgage or the Agreement or any other obligation secured by this Mortgage is construed or interpreted by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so construed or interpreted and shall not affect the remaining paragraphs, clauses and provisions of this Mortgage or the Agreement or other obligations secured by this Mortgage.

K. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage. If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

L. HAZARDOUS SUBSTANCES. Borrower will not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law; notwithstanding foreseeing the presence, use, or storage on the Property results from small quantities of

J.M.D.
M.H.D.

Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. As used herein, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; and "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

M. INJURY TO PROPERTY. All causes of action of Borrower, whether accrued before or after the date of the Mortgage, for damage or injury to the Property described in the Mortgage or any part hereof, or in connection with the transaction financed in whole or in part by the funds loaned to Borrower by Lender, or in connection with or affecting the Property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of material fact are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid to Lender who, after deducting therefrom all its expenses, including reasonable attorneys' fees, may apply such proceeds to the sums secured by the Mortgage or to any deficiency under the Mortgage or release any moneys so received by it or any part thereof, as Lender may elect. Lender may, at its option, appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute such further assignments and other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

N. FEES. Lender, or its successors and assigns, may charge and Borrower agrees to pay a reasonable release fee for each full or partial release of the Mortgage together with any fees or charges assessed for recording each such full or partial release if permitted under applicable law at the time of any release. Lender may charge Borrower a reasonable fee for any services rendered to Borrower or on Borrower's behalf pursuant to the Mortgage or the Agreement to the extent permitted under applicable law. Any such charge shall be secured by the Mortgage, and Borrower agrees to pay the same upon demand, together with interest thereon from the date of such charges at the rate payable from time to time on outstanding principal under the Agreement.

O. OFFSETS. No indebtedness secured by this Mortgage shall be deemed to be offset or to be offset or compensated by all or part of any claim, cause of action, or counterclaim, whether liquidated or unliquidated, which Borrower now or hereafter may have or may claim to have against Lender.

P. WAIVER OF HOMESTEAD. Borrower hereby waives all rights of homestead exemption in the Property.

Q. SEVERABILITY. Any provision of this Mortgage which is prohibited or unenforceable shall be ineffective to the extent of such prohibition to such unenforceability without invalidating the remaining provisions thereof.

J.M.D.
H.D.

Customer Name:	**JAMES M DANIELS**
Application #:	**9911000224**

Exhibit A (Legal Description)

THE FOLLOWING REAL ESTATE, SITUATED IN SHELBY COUNTY, ALABAMA, TO-WIT:

LOT 35, ACCORDING TO THE SURVEY OF DEARING DOWNS, THIRD ADDITION, AS RECORDED IN MAP BOOK 8, PAGE 15, IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA.

Being that parcel of land conveyed to JAMES M. DANIELS AND WIFE, MARTHA H. DANIELS, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP from STEPHEN K. ROBERTSON AND WIFE, FRANCES M. ROBERTSON by that deed dated 6-11-87 and recorded 6-16-87 in Deed Book 136, at Page 9 of the SHELBY County, AL Public Registry

END OF REPORT.

Inst # 1999-21875

05/25/1999-21875
12:26 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
009 MMS 125.55

Atlantic Assurance of Georgia ■ PO Box 577 ■ Smyrna, GA 30080-0577
2300 Lake Park Drive ■ Suite 325 ■ Smyrna, GA 30080-7653
770-801-9290, 800-290-2618 ■ FAX 770-801-9599, 800-290-2619