

**LOAN MODIFICATION AGREEMENT**  
(Providing for Adjustable Interest Rate)

This Loan Modification Agreement ("Agreement"), made this 27<sup>th</sup> day of March 2002 between Thomas J. Avery and Samantha D. Avery, Husband and Wife Borrower") and National Bank of Commerce of Birmingham, a National Banking Association ("Lender"), amends and supplements (1) the Mortgage, Deed of Trust or Deed to Secure Debt (as modified by an Adjustable Rate Rider of the same date) (the "Security Instrument"), dated May 1, 2001 and recorded in Instrument # 2001-17596 of the Judge Of Probate Records of Shelby County, Alabama and (2) the Note bearing the same date as, and secured by, the Security Instrument, which covers the real and personal property described in the Security Instrument and defined there in as the "Property," located at 2307 Twelve Oaks Drive, Birmingham, Alabama, 35244

The real property described being set forth as follows:

Lot 3602-A, according to the survey of Riverchase Country Club, 36<sup>th</sup> Addition, as recorded in Map Book 24, page 77, in the Office of the Judge of Probate of Shelby County, Alabama.

In consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

1. As of March 27, 2002 the amount payable under the Note and the Security Instrument (the "Unpaid Principal Balance") is U.S. \$475,750.00 consisting of the amount(s) loaned to Borrower by the Lender and any interest capitalized to date.
2. The Borrower promises to pay the Unpaid Principal Balance, plus interest, to the order of the Lender. Interest will be charged on the Unpaid Principal Balance at the yearly rate of 5.00% (the "initial rate of interest"), from March 27, 2002. The Borrower promises to make monthly payments of principal and interest of U.S. \$2553.93 beginning on the 1<sup>ST</sup> day of May 2002, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. The amount of the monthly payment of principal and interest may change if the interest rate that Borrower must pay changes. The Lender will determine the Borrower's new interest rate and the changed amount of the required monthly payment in accordance with the

terms of the Note. If on April 1, 2032 (the "Maturity Date"), the Borrower still owes amounts under the Note and the Security Instrument, as amended by this agreement, the Borrower will pay these amounts in full on the Maturity Date.

The Borrower understands and agrees that the initial rate of interest may change on the first day of April 1<sup>st</sup> 2003, and on that day every 12<sup>th</sup> month thereafter on the "change date" as such term is defined in the Note and Security Instrument.

The Borrower will make such payment at 1927 1<sup>st</sup> Avenue North, Birmingham, Alabama 35203 or at such other place as the Lender may require.

The Borrower understands that (i) the interest rate they are required to pay at the first Change Date will not be greater than 7.00 % or less than 3.00% and (ii) their interest rate will never be greater than 11.00% as specified in the Note.

The Borrower understands and agrees that the margin is reducing from 2.875 % to 2.75%.

3. If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument.

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 given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

4. The Borrower also will comply with all other covenants, agreements, and Requirements of the Security Instrument, including without limitation, the Borrower's covenants and agreements to make all payments of taxes, insurance premiums, assessments, escrow items, impounds, and all other payments that the Borrower is obligated to make under the Security Instrument, including:
  - (a) all terms and provisions of the Note and Security Interest (if any) providing for, implementing, or relating to, any change or adjustment in the rate of interest payable under the Note, and
  - (b) all terms and provisions of any adjustable rate rider or other

instrument or document that is affixed to, wholly or partially incorporated into, or is part of, the Note or Security Instrument and that contains any such terms and provisions as those referred to in (a) above.

5. Nothing in the Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Agreement will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this agreement.

Witness: Stephen C. Bentley Thomas J. Avery (Seal)  
Thomas J. Avery - Borrower

Witness: Rob S. Cooper Samantha D. Avery (Seal)  
Samantha D. Avery - Borrower

Lender: National Bank of Commerce of  
Birmingham

Witness: Jeff H.

Laurie W. Trimm

By: Laurie W. Trimm  
(Authorized Officer Name)


Witness: Kathleen P.

Its: Vice President  
(Authorized Officer Title)

STATE OF ALABAMA)  
COUNTY OF JEFFERSON) SS.

I, Angela Carter Brazzill, A Notary Public, in and for said County in said State, hereby certify that Laurie W. Trimm whose name as Vice President of National Bank of Commerce of Birmingham, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance she, as such officer and with full authority, execute the same voluntarily for and as the act of said corporation.

Given under my hand this the 27TH day of MARCH, 2002.

  
Notary Public


My commission expires:  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Aug. 18, 2003  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)  
COUNTY OF JEFFERSON

SS.

I, Angela Carter Brazzill, A Notary Public, in and for said County in said State, hereby certify that SAMANTHA D. AVERY, whose name is signed to the Foregoing conveyance, and who is known to me, acknowledged before me on this day, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 27TH day of MARCH, 2002.

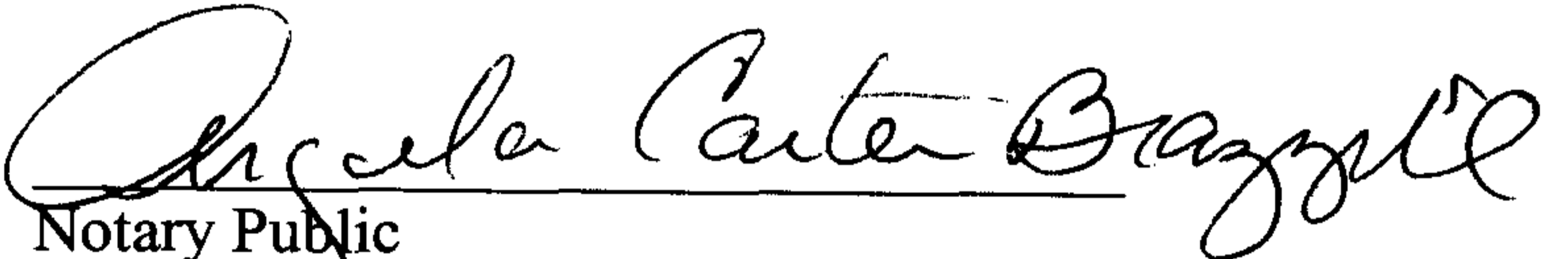
  
Notary Public

My commission expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Aug. 18, 2003  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)                    SS.  
COUNTY OF JEFFERSON

I, Angela Carter Brazzill, A Notary Public, in and for said County in said State, hereby certify that THOMAS J. AVERY, whose name is signed to the Foregoing conveyance, and who is known to me, acknowledged before me on this day, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 27TH day of MARCH, 2002.

  
Notary Public

My commission expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Aug. 18, 2003  
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