

20050627000317760 1/13 \$204.50
Shelby Cnty Judge of Probate, AL
06/27/2005 04:21:31PM FILED/CERT

After Recording Return To:
AEGIS FUNDING CORP, ATTN: POST CLOSING MAIL STOP R5-54
3013 BRIARPARK, SUITE 700
HOUSTON, TEXAS 77042
Loan Number: 95008745

[Space Above This Line For Recording Data]

MORTGAGE

THIS MORTGAGE SECURES A REVOLVING CREDIT ARRANGEMENT. MORTGAGEE
IS OBLIGATED TO ADVANCE FUNDS IDENTIFIED IN THE HELOC, DEFINED BELOW.

MIN: 1000147-0095008745-9

DEFINITIONS

- (A) "Security Instrument" means this document, which is dated JUNE 16, 2005, together with all Riders to this document.
- (B) "HELOC" means the Home Equity Line of Credit Agreement signed by the Debtor or Debtors, as defined below.
- (C) "Credit Account" means the Home Equity Line of Credit pursuant to which the Lender makes advances to the Debtor at the Debtor's direction, allowing the Debtor to repay those advances and take additional advances, subject to the terms of the HELOC.
- (D) "Account Balance" is the total unpaid principal of the Credit Account, plus earned but unpaid finance charges, and outstanding fees, charges and credit insurance premiums.
- (E) "Credit Limit" means the maximum aggregate amount of principal that may be secured by this Security Instrument at any one time. The Credit Limit is \$105,000.00. Except to the extent prohibited by Applicable Law, the Credit Limit does not apply to interest, finance charges, and other fees and charges validly incurred by Borrower under the HELOC and this Security Instrument. The Credit Limit also does not apply to other advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.
- (F) "Maturity Date" is the date on which the entire Account Balance under the HELOC is due. The entire Account Balance on the HELOC Credit Account, as defined in the HELOC and this Security Instrument, is due on JUNE 16, 2030.
- (G) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
- (H) "Debtor" is the party or parties who signed the HELOC dated JUNE 16, 2005. The Debtor may or may not be the Borrower.
- (I) "Borrower" is BRADLEY R SMITH AND DEBBIE G SMITH, HUSBAND AND WIFE

the party or parties who have signed this Security Instrument.

BR5 Dgp

Borrower is the Mortgagor under this Security Instrument. The Borrower may or may not be the Debtor.

(J) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(K) "Lender" is AEGIS FUNDING CORP D/B/A AEGIS HOME EQUITY

Lender is a TEXAS CORPORATION
and existing under the laws of TEXAS

organized

Lender's address is 1855 W BASELINE RD #200, MESA, ARIZONA 85202

Lender's license number is

Lender is the Mortgagee under this Security Instrument.

(L) "Secured Debt" means:

(1) The debt, interest, finance charges, and other fees and charges incurred under the terms of the HELOC and all extensions, modifications, substitutions or renewals thereof.

(2) Any advances made and expenses incurred by Lender under the terms of this Security Instrument.

(M) "Prior Loan" means a loan secured by a lien on the Property as of the date this Security Instrument, which lien has priority over the lien of this Security Instrument.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

☐ 1-4 Family
☐ Second Home

☐ Condominium Rider
☐ Planned Unit Development Rider

☐ Other(s)

(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

(Q) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(R) "Property" means the Property that is described below under the heading "Transfer of Rights in the Property."

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Secured Debt under the HELOC, and all renewals, extensions and modifications of the HELOC; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Debtor's covenants and agreements under the HELOC. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, with power of sale, the following described property located in the

COUNTY

of

SHELBY

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

BR Dgs

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A".

A



20050627000317760 3/13 \$204.50
Shelby Cnty Judge of Probate, AL
06/27/2005 04:21:31PM FILED/CERT

which currently has the address of 3637 CHESHIRE RD

BIRMINGHAM
[City]

ALABAMA
[State]

[Street]
35242
[Zip Code]

("Property Address"):

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 Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Debtor, Borrower and Lender covenant and agree as follows:

1. **HELOC Advances.** During the Draw Period described in the HELOC, the Debtor may repeatedly take and repay any advances that Lender makes to Debtor under the terms of the HELOC and this Security Instrument, subject to the terms that the HELOC and this Security Instrument impose. This Security Instrument will remain in full force and effect notwithstanding that the Account Balance under the HELOC may occasionally be reduced to an amount of equal to or less than zero.

Any amounts that Lender advances to Debtor in excess of the Credit Limit will be secured by the terms of this Security Instrument unless applicable law prohibits the same. Lender shall not be obligated to increase the Credit Limit formally or to make additional Advances in excess of the Credit Limit stated in the HELOC even though the Credit Limit has been exceeded one or more times. The Draw Period may or may not be followed by a Repayment Period, as described in the HELOC, during which additional Advances are not available. During both the Draw Period and the Repayment Period the Lender may, at its option, make Advances from the Credit Account to pay fees, charges, or credit insurance premiums due under the HELOC or this Security Instrument, or make other Advances as allowed by this Security Instrument.

2. **Payments.** All payments shall be made in U.S. currency. Borrower and Debtor shall pay when due all Secured Debt in accordance with the HELOC and this Security Instrument. However, if any check or other instrument received by Lender as payment under the HELOC or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the HELOC be by a method of Lender's choosing. These methods include, but are not limited to: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check

BRS Dgs

or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Credit Account Billing Statement or at such other location as may be designated by Lender in accordance with the notice provisions in provided in this Security Instrument and HELOC. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the HELOC current. Lender may accept any payment or partial payment insufficient to bring the HELOC current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. No offset or claim which Borrower or Debtor might have now or in the future against Lender shall relieve Borrower or Debtor from making payments due under the HELOC and this Security Instrument or performing the covenants and agreements secured by this Security Instrument. Payments shall be applied as set forth in the HELOC.

3. Charges. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any.

Borrower shall pay when due, or shall cause to be paid when due, all sums required under the loan documents evidencing the prior loan and shall perform or cause to be performed all of the covenants and agreements of Borrower or the obligor set forth in such loan documents.

4. Prior Security Interests; Liens. Borrower shall promptly discharge any lien, other than the Prior Loan, which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, other than the Prior Loan, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth in this Security Instrument and HELOC.

Lender may require Borrower or Debtor to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this HELOC.

All of Lender's rights under this Covenant shall be subject to the rights of the Holder of the Prior Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the HELOC. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Covenant shall become Secured Debt and subject to the terms of the HELOC and this Security Instrument.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the HELOC up to the amount of the outstanding account balance under the HELOC. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid

BRS *Dge*

premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the HELOC up to the amount of the outstanding HELOC Account Balance.

In the event of loss, Borrower shall 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, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under the HELOC, this Security Instrument or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the HELOC or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the HELOC or this Security Instrument, whether or not then due.

6. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower or Debtor any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the Secured Debt by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in the HELOC and this Security Instrument.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the Secured Debt by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the Secured Debt by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower or Debtor and Lender otherwise agree in writing, the Secured Debt by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the Secured Debt immediately before the partial taking, destruction, or loss in value divided by (b) the fair market

BS *Dgs*

value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the Secured Debt immediately before the partial taking, destruction, or loss in value, unless Borrower or Debtor and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the Secured Debt by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, and Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the Secured Debt by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower and Debtor shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower or Debtor can cure such a default and, if acceleration has occurred, reinstate as provided in this Security Instrument, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be otherwise applied in the order provided for in the HELOC and this Security Instrument.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower resides on the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of its obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Default. Borrower or Debtor shall be in default if, during the HELOC application process, or at any time during the term of the HELOC, Borrower or Debtor or any persons or entities acting at the direction of Borrower or Debtor or with Borrower's or Debtor's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the HELOC. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

Borrower or Debtor is also in default if:

1) Borrower or Debtor engages in fraud or makes a material misrepresentation at any time in connection with Debtor's Credit Account; 2) Lender does not receive the full amount of any Minimum Payment due or Borrower or Debtor fails to meet any of the other repayment terms of this Agreement; 3) Borrower or Debtor's action or inaction adversely affects the Property or Lender's rights in it. Examples of these actions or inactions include, but are not limited to: a) Debtor's death, if Debtor is the sole person on the Credit Account; or the death of all but one debtor which adversely affects Lender's security; b) Illegal use of the Property, if such use subjects the Property to seizure; c) Transfer of all or part of the Borrower interest in the Property without Lender's written consent; d) All or part of the Property is taken by condemnation or eminent domain; e) Foreclosure of any senior lien on the

BS Dgo

Property; f) Failure to maintain required insurance on the Property; g) Waste or destructive use of the Property which adversely affects Lender's security; h) Failure to pay taxes or assessments on the Property; i) Permitting the creation of a senior lien on the Property other than a Prior Loan; j) Filing of a judgment against Borrower or Debtor, if the amount of the judgment and collateral subject to the judgment is such that Lender's security is adversely affected.

Lender may, at its option, take lesser actions than those described at the beginning of this Section. Such lesser actions may include, without limitation, suspending Debtor's Credit Account and not allowing Debtor to obtain any further Advances, reducing Debtor's Credit Limit, and/or changing the payment terms on Debtor's Credit Account. If Lender takes any such actions, this shall not constitute an election of remedies or a waiver of Lender's right to exercise any rights or remedies under the remainder of this section, the remaining provisions of this Agreement, the Security Instrument, or at law or in equity. Lender may take action under this Section only after complying with any notice or cure provisions required under applicable law. In the event Lender elects not to terminate the Credit Account or take any lesser action as provided in this Section, Lender does not forfeit or waive its right to do so at a later time if any of the circumstances described above exists at that time.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any Secured Debt by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Lender may without notice, perform or cause to be performed any covenant of Borrower in this Security Instrument, and Borrower appoints Lender as attorney in fact to sign Borrower's name. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take this action, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section.

Any amounts disbursed by Lender under this Section shall become additional debt of Borrower secured by this Security Instrument, payable according to the terms of the HELOC and this Security Instrument. These amounts shall bear interest at the HELOC rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. HELOC Charges. If the HELOC is subject to a law which sets maximum HELOC charges, and that law is finally interpreted so that the interest or other HELOC charges collected or to be collected in connection with the HELOC exceed the permitted limits, then: (a) any such HELOC charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Debtor which exceeded permitted limits will be refunded to Debtor. Lender may choose to make this refund by reducing the principal owed under the HELOC or by making a direct payment to Debtor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the HELOC). Debtor's acceptance of any such refund made by direct payment to Debtor will constitute a waiver of any right of action Debtor might have arising out of such overcharge.

11. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address

BRB *Rgp*

through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

12. Governing Law; Severability; Rules of Construction. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. In the event that any provision or clause of this Security Instrument or the HELOC conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the HELOC which can be given effect without the conflicting provision.

13. Borrower's Copy. Borrower and Debtor shall be given one copy of the HELOC and of this Security Instrument.

14. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the Secured Debt by this Security Instrument granted by Lender to Borrower or Debtor or any Successors in Interest of Borrower shall not operate to release the liability of Borrower or Debtor or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

15. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who signs this Security Instrument but does not execute the HELOC: (a) is signing this Security Instrument only to mortgage, grant and convey the signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the Secured Debt by this Security Instrument; and (c) agrees that Lender and any other Debtor and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the signer's consent.

Subject to the provisions of the Security Instrument, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender.

16. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 16, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

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. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

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 11 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.

17. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender or causes Lender to be paid all sums which then would be due under this Security Instrument and the HELOC as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees,

BS Dgs

and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower or Debtor's obligation to pay the Secured Debt by this Security Instrument.

18. Condemnation. Borrower will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Borrower authorizes Lender to intervene in Borrower's name in any of the above described actions or claims. Borrower assigns to Lender 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 shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any Prior Loan.

19. Financial Reports and Additional Documents. Borrower and Debtor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Borrower or Debtor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Borrower or Debtor's obligations under this Security Instrument and Lender's lien status on the Property.

20. Change of Servicer; Notice of Grievance. The HELOC or a partial interest in the HELOC (together with this Security Instrument) can be sold one or more times without prior notice to Borrower or Debtor. A sale might result in a change in the entity (known as the "Servicer") that collects the amounts due under the HELOC and this Security Instrument and performs other mortgage loan servicing obligations under the HELOC, this Security Instrument, and Applicable Law. There also might be one or more changes of the Servicer unrelated to a sale of the HELOC. If the HELOC is sold and thereafter the HELOC is serviced by a Servicer other than the purchaser of the HELOC, the servicing obligations to Borrower or Debtor will remain with the Servicer or be transferred to a successor Servicer and are not assumed by the HELOC purchaser unless otherwise provided.

Neither Borrower, Debtor nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower, Debtor or Lender has notified the other party and allowed the other party reasonable time to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph.

21. Hazardous Substances. As used in this Section: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes 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; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) 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, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall

BBB *Dgo*

promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Debtor, Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's or Debtor's breach of any covenant or agreement in this Security Instrument or the HELOC (but not prior to acceleration under Section 16 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and the sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give a copy of a notice to Borrower in the manner provided in Section 11. Lender shall publish the notice of sale once a week for three consecutive weeks in a newspaper published in SHELBY County, Alabama, and thereupon shall sell the Property to the highest bidder at public auction at the front door of the County Courthouse of this County. Lender or its designee may purchase the Property at any sale. Borrower covenants and agrees that the proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Waivers. Borrower waives all rights of homestead exemption in the Property and relinquishes all rights of curtesy and dower in the Property.

BRS *[Signature]*

**MORTGAGEE REQUESTS NOTICE OF ANY ADVERSE ACTION
THAT A PRIORITY LIEN HOLDER TAKES WITH REGARD TO
THE PROPERTY, INCLUDING DEFAULT AND FORECLOSURE**

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Bradley R. Smith (Seal)
BRADLEY R. SMITH -Borrower

Debbie G. Smith (Seal)
DEBBIE G SMITH -Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

Witness:

Witness:

Ronald D. Price
Ronald D. Price

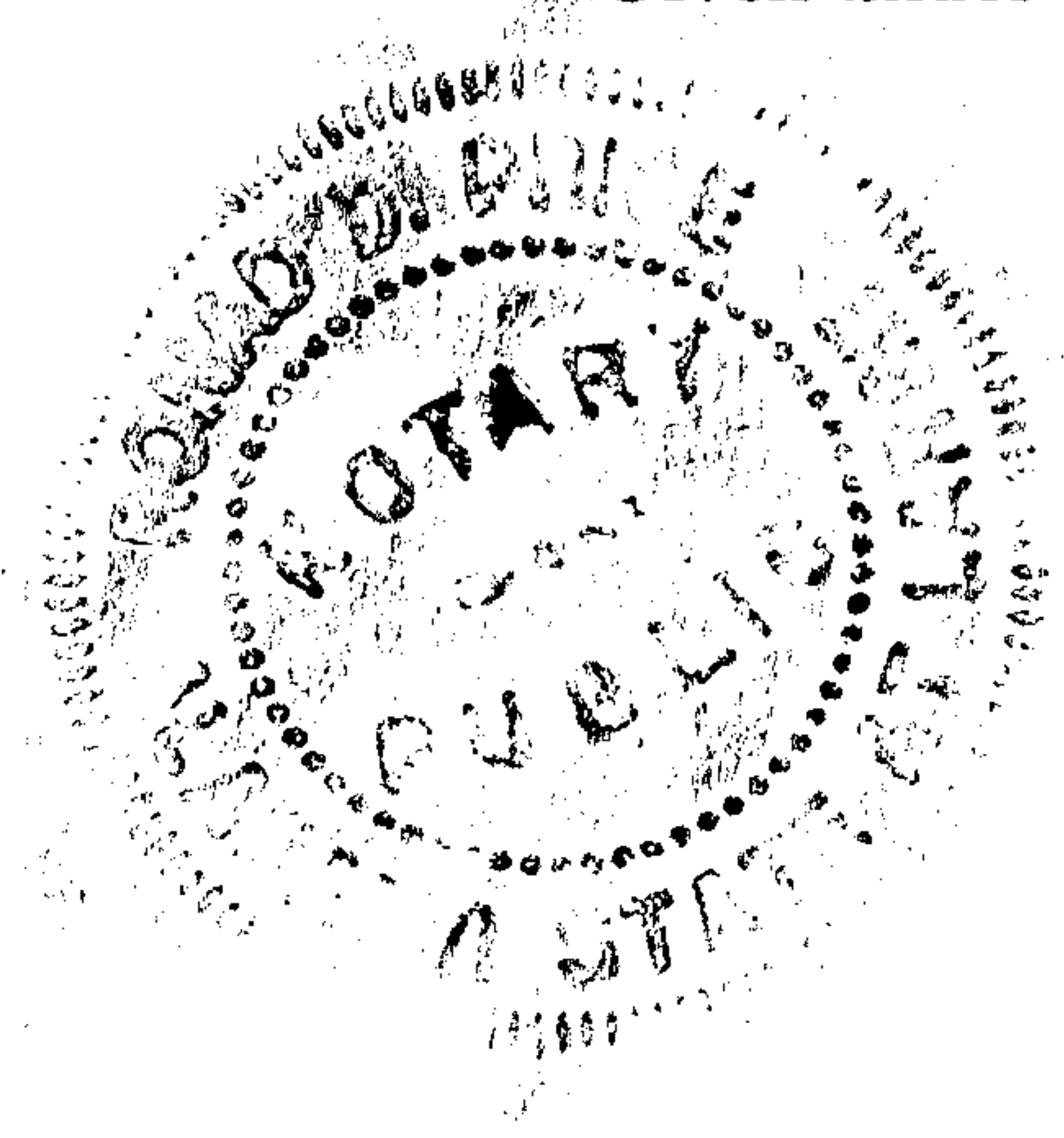
[Space Below This Line For Acknowledgment]

State of Alabama
County of SHELBY

I, Ronald D. Price (name of officer),
a Notary Public in and for said County in said State (or for said State at Large), hereby certify that
BRADLEY R SMITH, DEBBIE G SMITH

whose name(s) is/are signed to the foregoing Security Instrument, and who is/are known to me, acknowledged before
me on this day that, being informed of the contents of the above and foregoing Security Instrument, he/she/they
executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office this 16 day of June 2005



Ronald D. Price
Notary Public

My commission expires:

(Seal)

MY COMMISSION EXPIRES
AUGUST 01, 2007

This Instrument was prepared by: Kevin glennon

BRS Dgs

20050627000317760 13/13 \$204.50
Shelby Cnty Judge of Probate, AL
06/27/2005 04:21:31PM FILED/CERT

SCHEDULE "A"

THE FOLLOWING DESCRIBED REAL ESTATE, LYING AND BEING IN THE COUNTY OF SHELBY,
STATE OF ALABAMA, TO-WIT:

LOT 11, ACCORDING TO THE MAP AND SURVEY OF MEADOW BROOK 5TH SECTOR, 1ST
PHASE, AS RECORDED IN MAP BOOK 8 PAGE 109 IN THE PROBATE OFFICE OF SHELBY
COUNTY, ALABAMA; BEING SITUATED IN SHELBY COUNTY, ALABAMA.

SUBJECT TO EXISTING EASEMENTS, CURRENT TAXES, RESTRICTIONS AND COVENANTS,
SET-BACK LINES AND RIGHTS OF WAY, IF ANY, OF RECORD.

DEED NOTE: PRIOR INTEREST FROM 10-3-01

TAX ID# 101-01-0-001-057.011