

1. The 1913-1915 Works. Inspection. The Mortgagee agrees to take good care of the Real Estate and all improvements and personal property and not to remove or permit any one to remove therefrom any of the same.

SECTION 3.06. Rents and Leases. The Mortgagor covenants and agrees that the Mortgagor shall: (a) comply with all of its obligations under the terms of the Leases and agreements related to the Mortgages of any default of the Mortgagor or any lessee(s) enforce the performance of the obligations to be performed by an lessee (under the terms of the Leases, (c) appear in and defend any action or proceeding related to the Leases (upon request by the Mortgagee, in the name and on behalf of the Mortgagor) and pay all costs and expenses of the Mortgagee including reasonable attorneys fees, in any action or proceeding in which the Mortgagee may appear; (d) not receive or collect any Rents for a period of more than one month in advance; (e) not terminate or otherwise encumber or assign future payments of the Rents; (f) not waive, compromise or in any manner release or discharge any lessee of any obligations under any Lease; (g) not renew or extend any Lease, without the prior written consent of the Mortgagee; (h) promptly upon the execution by the mortgagor of any lease, furnish the Mortgagee with a copy of such lease, and execute all such further assignments of such lease and the Rents therefrom as the Mortgagee may require; and (i) not enter into any lease with a term prior written consent of the Mortgagee, which consent may be withheld for any reason whatsoever in the sole discretion of the Mortgagee, and nothing contained in this mortgage shall be construed to be a covenant for the Mortgagor to enter into or execute any Lease.

[illegible][illegible][illegible]

SECTION 3.09. Compliance with Laws. The Mortgagee shall comply with any and all laws, regulations, orders, decrees, judgments, and writs of any governmental authority having jurisdiction over the Mortgagee and the Mortgagor, and computing and including the cost of compliance with such laws, regulations, orders, decrees, judgments, and writs in the cost of the Mortgage. The Mortgagee shall not be obligated to take any action to comply with any law, regulation, order, decree, judgment, or writ that is not deemed to be reasonable and shall have no interest in the cost of compliance with such laws, regulations, orders, decrees, judgments, and writs.

IV. DEFEASANCE, DEFAULT AND REMEDIES

[illegible]

Estimates of Mortgages Upon Default

As a result of the above, the following is the balance sheet of the company as at 31st March 1994:

1. How do we get Property, by Mortgage? 10/15/17

wherein Proceedings Right to Recover. In the event of a default by the defendant, the plaintiff shall be entitled to recover the sum of \$10,000.00, plus interest thereon at the rate of 10% per annum, together with the costs of this action. The plaintiff shall be entitled to the proceeds of any judgment or settlement of this action, less the costs of this action, and shall be entitled to the proceeds of any judgment or settlement of this action, less the costs of this action, and shall be entitled to the proceeds of any judgment or settlement of this action, less the costs of this action.

[illegible][illegible]

(f) **Rents and Leases.** Upon the occurrence of an Event of Default with respect to the Borrower:

17) **Members and Officers.** Upon the acceptance of a charter of incorporation, the incorporators shall have the right, power and authority to exercise and enforce in any and all of the following rights and matters with respect to the corporation:

[illegible]

(f) without regard to the adequacy of the security, with or without any other proceedings, through any person or by agent, or by a receiver to be appointed by a court of competent jurisdiction, the mortgagor shall manage and operate the Property or any part thereof for the duration of the Mortgage; make, modify, enforce, cancel or accept surrender of any lease, remove and erect any improvements, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses the Mortgagee shall deem proper to protect the security hereof and fully and to the same extent as the Mortgagor could do if in possession, and in such event to apply any funds so collected to the operation and management of the Property (including payment of reasonable management, brokerage and attorney's fees) and payment of the Debt in such order and amounts as the Mortgagee may choose (or hold the same in reserve as security for the Debt);

11. ~~Notwithstanding~~ Notwithstanding any ~~provisions~~ provisions to the contrary, no ~~assignment~~ assignment or ~~transfer~~ transfer of the ~~benefit~~ benefit of the ~~loan~~ loan shall be made by the ~~borrower~~ borrower without the prior written consent of the ~~lender~~ lender.

shall continue for so long as the Mortgagee shall elect, notwithstanding that the collection and application of the funds may have cured the original default. If the mortgagee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

(g) **Application of Proceeds.** All payments received by the Mortgagee or proceeds of the Property, or any part thereof, as well as any and all amounts received by the Mortgagee in connection with the enforcement of any right or remedy under or with respect to this mortgage, shall be applied by the Mortgagee as follows: (i) to the payment of all necessary expenses incident to the execution of any foreclosure sale or sales or other remedies under this mortgage, including reasonable attorneys' fees as provided herein and in the Note, the Construction Loan Agreement and the other Security Documents; (ii) to the payment in full of any of the Debt that is then due and payable (including without limitation principal, accrued interest and all other sums secured hereby) and to the payment of attorneys' fees as provided herein and in the Note, the Construction Loan Agreement and the other Security Documents; (iii) to a cash collateral reserve fund to be held by the mortgagee in an amount equal to, and as security for, any of the Debt that is not then due and payable; and (iv) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of establishing their identity.

(h) **Multiple Sales.** Upon the occurrence of any Event of Default or at any time thereafter, the mortgagee shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this mortgage, but without deducting the whole Debt due. Any such sale may be made subject to the unsecured part of the Debt secured by this mortgage and such sale, if so made, shall not in any manner affect the unsecured part of the Debt secured by this mortgage, but as to such unsecured part of the Debt this mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Debt whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Debt without exhausting any power of foreclosure and the power to sell the Property for any other part of the Debt, whether matured or the time or subsequently maturing.

(i) **Waiver of Appraisalment Laws.** The Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisalment before sale of any portion of the Property (commonly known as appraisalment laws), or (ii) any extension of time for the enforcement of the collection of the Debt or any restriction or extension of the period of redemption from any sale made in collecting the Debt (commonly known as stay laws and redemption laws).

(j) **Prerequisites of Sales.** In case of any sale of the Property as authorized by this Section 4.02, all prerequisites to the sale shall be presumed to have been performed and in any event, no one given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Debt or as to the advancement of sale, or the time, place and manner of sale or the nature of any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

V MISCELLANEOUS

SECTION 5.01. Collection Costs. The Mortgagor agrees to pay all costs, including reasonable attorneys' fees, incurred by the Mortgagee in collecting or securing, or attempting to collect or secure, the Debt, or any part thereof, or in defending or attempting to defend the priority of this mortgage against any Lien on the Property, unless the mortgage is herein expressly made subject to any such Lien, and to all costs incurred in the foreclosure of this mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction (including without limitation any costs of title examination, notice of foreclosure and appraisals). The full amount of such costs incurred by the Mortgagee shall be a part of the Debt and shall be secured by this mortgage.

SECTION 5.02. No Obligations with Respect to Leases. The Mortgagee shall not by virtue of this mortgage or otherwise assume any duties, responsibilities, liabilities or obligations with respect to, or in connection with, the Improvements, the Personal Property, the Real Estate or any of the other Property (unless expressly assumed by the Mortgagee under a separate agreement in writing), and this mortgage shall not be deemed to confer on the Mortgagee any duties or obligations that would make the Mortgagee directly or derivatively liable for any person's negligent, reckless or willful conduct. The Mortgagor agrees to defend, indemnify and save harmless the Mortgagee from and against any and all claims, causes of action and judgments relating to the Mortgagor's performance of its duties, responsibilities and obligations under Leases and with respect to the Real Estate, the Improvements, the Personal Property, or any of the other Property.

SECTION 5.03. Construction of Mortgage. This mortgage is and may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and the assignment and security interest created hereby and the purposes and agreements hereunder set forth.

SECTION 5.04. Successors and Assigns. All covenants and agreements herein made by the undersigned shall bind the undersigned and their heirs, personal representatives, successors and assigns of the undersigned; and every option, right and privilege herein reserved or secured to the Mortgagee shall inure to the benefit of the Mortgagee's successors and assigns.

SECTION 5.05. Waiver and Election. The exercise by the Mortgagee of any option given under the terms of this mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien, security interest and assignment granted by this mortgage, either on any matured portion of the Debt or for the whole of the Debt, shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit, nor shall the publication of notices for foreclosure preclude the prosecution of a later suit thereon. In foreclosing under the power of the Mortgagee in exercising any right, power or remedy under this mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or thereunder. The remedies provided in this mortgage and in the other Security Documents are cumulative and not exclusive of any remedies provided by law. No amendment, modification, termination or waiver of any provisions of this mortgage or any of the Security Documents, nor consent to any departure by the Mortgagor therefrom, shall be effective unless the same shall be in writing and signed by an executive officer of the Mortgagee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Mortgagor in any case shall entitle the Mortgagee to any other or further notice or demand in similar or other circumstances.

SECTION 5.06. Landlord-Tenant Relationship. Any sale of the Property under this mortgage shall, without further notice, create the relationship of landlord and tenant or successors between the purchaser and the Mortgagee.

SECTION 5.07. Entirety. If any provision of this mortgage is now or at any time hereafter becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Mortgagee to effectuate the provisions hereof.

SECTION 5.08. Application of Payments. If the lien, assignment or security interest created by this mortgage is invalid or unenforceable as to any part of the Debt or is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the Debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Debt, and all payments made on the Debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Debt which is not secured or not fully secured by said lien, assignment or security interest created hereby.

SECTION 5.09. Other Mortgages Encumbering the Real Estate. The Mortgagor hereby authorizes the holder of any other mortgage encumbering the Real Estate or the Improvements to disclose to the Mortgagee from time to time and at any time the following information: (a) the amount of Debt secured by such mortgage; (b) the amount of such Debt that is unpaid; (c) whether such Debt is in arrears; (d) whether there is or has been any default with respect to such mortgage or the Debt secured thereby; and (e) any other information regarding such mortgage or the Debt secured thereby that the Mortgagee may request from time to time.

The Mortgagor expressly agrees that if default should be made in the payment of principal, interest or any other sum secured by any other mortgage encumbering the Real Estate or the Improvements, the Mortgagee may (but shall not be required to) pay all or any part of such amount in default without notice to the Mortgagor. The Mortgagor agrees to repay any such sum advanced upon demand, with interest from the date such advance is made at the rate provided for in the Note, or the highest rate permitted by law, whichever shall be less, and any sum so advanced with interest shall be a part of the Debt secured by the Mortgage.

SECTION 5.10. Meaning of Particular Terms. Whenever used, the singular number shall include the plural and the plural the singular and pronouns of one gender shall include all genders, and the words "Mortgagor" and "Mortgagee" shall include their respective successors and assigns. Plural or singular words used herein to designate the undersigned shall be construed to refer to the number of persons, if the instrument, whether one or more natural persons, corporations, associations, partnerships or other entities.

SECTION 5.11. Advances by the Mortgagee. If the Mortgagor shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of taxes, the carrying of the Property in repair, the performance of this mortgage's obligations under any Lease, the payment of any prior mortgages, or the performance of any other term or covenant hereunder, the Mortgagee may (but shall not be required to) make advances to perform the same, and where necessary enter the Property for the purpose of performing any such term or covenant. The Mortgagee agrees to repay all such sums advanced upon demand, with interest from the date such advances are made, at the rate provided for in the Note, or the highest rate permitted by law, whichever shall be less, and all sums so advanced with interest shall be a part of the Debt and shall be secured hereby. The making of any such advances shall not be construed as a waiver by the Mortgagee of any Event of Default resulting from the Mortgagor's failure to pay the amounts paid.

SECTION 5.12. Release or Extension by the Mortgagee. The Mortgagee, without notice to the mortgagor and without in any way affecting the rights of the Mortgagee hereunder as to any part of the Property not expressly released, may release any part of the Property or any person liable for any of the Debt and may agree with any party with an interest in the Property to extend the time for payment of any part of the Debt or to waive the prompt and full performance of any term, condition or covenant of the Note, the Construction Loan Agreement, any of the Security Documents, this mortgage or any other instrument evidencing or securing the Debt.

SECTION 5.13. Partial Payments. Acceptance by the Mortgagee of any payment of less than the full amount due on the Debt shall be deemed acceptance on account only, and the failure of the mortgagee to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Debt has been paid, the Mortgagee shall be entitled to exercise all rights conferred on it by the terms of this mortgage in case of the occurrence of an Event of Default.

SECTION 5.14. Addresses for Notices. All notices, requests, demands and other communications provided for hereunder shall be in writing or by telex, telegram or cable and shall be effective when mailed, sent or delivered to the applicable party at its address indicated on the first page of this mortgage or at such other address as shall be designated by such party in a written notice to the other parties hereto.

SECTION 5.15. Titles. All section, paragraph, subparagraph or other titles contained in this mortgage are for reference purposes only, and this mortgage shall be construed without reference to said titles.

SECTION 5.16. Satisfaction of Mortgage. The Mortgagor agrees to pay all costs and expenses associated with the release or satisfaction of this mortgage.

IN WITNESS WHEREOF, the undersigned Stylemark Homebuilders, Inc.

has executed this instrument (has caused this instrument) to be executed by its duly authorized _____

President

(Corporate or Partnership Signature)

Stylemark Homebuilders, Inc.



Joe N. Roberts, President

ATTEST:

By _____

In _____

(Individual Signature)

STATE OF ALABAMA

COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____ 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 said instrument, he/she executed the same voluntarily on this day the _____ month of _____, 2000.

Given under my hand and official seal this _____ day of _____, 2000.

Notary Public

AFFIX SEAL

My Commission Expires: _____

[Corporate]

STATE OF ALABAMA

Shelby COUNTY)

I, the undersigned _____, a Notary Public in and for said County in said State, hereby certify that Joe N. Roberts _____, whose name as _____ President of Stylemark Homebuilders, Inc. _____, a corporation, 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 said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 23rd day of March, 2000.

Notary Public

COURTNEY H. MASON, JR.
MY COMMISSION EXPIRES MARCH 5, 2003

AFFIX SEAL

My Commission Expires: _____

[Partnership]

STATE OF ALABAMA

COUNTY)

I, _____, a Notary Public in and for said County in said State, hereby certify that _____, whose name as general partner of _____, a _____ (general) (limited) partnership, 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 said instrument, he/she, as such general partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this _____ day of _____, 2000.

Notary Public

AFFIX SEAL

My Commission Expires: _____

This instrument prepared by:

Exhibit "A"

Lot 1516, according to the Survey of Eagle Point, 15th Sector, as recorded in Map Book 26 page 35 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama. Mineral and mining rights excepted.

DM

Inst • 2000-09505

03/27/2000-09505
08:10 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
CJH 408.50