


STATE OF ALABAMA  
COUNTY OF SHELBY

  
20021029000532670 Pg 1/8 33.00  
Shelby Cnty Judge of Probate, AL  
10/29/2002 09:27:00 FILED/CERTIFIED

## NEGATIVE PLEDGE AGREEMENT

THIS NEGATIVE PLEDGE AGREEMENT (hereinafter "Agreement") is made this \_\_\_\_ day of October, 2002, between **THE VALLEYDALE BAPTIST CHURCH, an Alabama non-profit corporation**, whose address is 2545 Valleydale Road, Birmingham, Alabama, 35244 (hereinafter jointly severally and collectively referred to as "Owner") and **AMSOUTH BANK** whose address is P.O. Box 11007, Birmingham, Alabama, 35288 (hereinafter "Lender").

**WHEREAS**, Owner is the owner of the land described on Exhibit "A" attached hereto, along with all buildings, structure, fixtures, equipment, personal property, improvements, easements, right-of-ways, interests, privileges, liberties, tenements, hereditaments, appurtenances, reversions and remainders pertaining thereto or pertaining thereto in the future (hereafter collectively the "Real Estate")

**WHEREAS**, Lender is making a loan to Owner, one of the conditions of which requires Owner to agree not to encumber the Real Estate while this loan, any part thereof, or any other obligation of Owner is still owed by Owner to Lender.

**NOW THEREFORE** for and in consideration of the premises, Ten Dollars and other good and valuable consideration in hand paid, and to induce Lender to make the loan to Owner, the Owner represents and warrants to the Lender, and covenants and agrees with the Lender, that it **WILL NOT** grant bargain, sell, alien, convey, mortgage, encumber, grant a security interest or lien in, or otherwise restrict or assign in any way, to or in favor of any person or entity, any interest in or to the Real Estate.

**PROVIDED HOWEVER**, if the loan made by Lender to Owner and all other obligations of Owner to Lender is paid, then this agreement shall be null and void; otherwise it shall remain in full force and effect.

**AND** the Owner covenants and agrees with the Lender a follows;

1. **Performance of Note and Loan Documents.** Owner shall perform and comply with all provisions hereof, of the Promissory Note dated this date from Owner to Lender and of the documents executed in connection herewith (hereinafter "Loan Documents"), and shall duly and punctually pay all indebtedness secured hereby, whether presently existing or hereafter incurred, with interest thereon, and any and every extension, renewal and modification thereof, or of any part thereof, and all interest on all such extensions, renewals, and modifications.
2. **Warranties of Title.** Owner covenants with Lender that it is lawfully seized in fee simple of the Real Estate and has full power and right to enter into this agreement, that the Real Estate is free of all encumbrances except as set out in Exhibit "A", that the Owner quietly enjoys and possesses the same; and Owner will warrant and forever defend the title to said Real Estate against lawful claims of all persons.

3. **Covenant Against Sale, Lease or Transfer.** In the event of any change in the present ownership of all or any part of the Real Estate or any interest therein, either by affirmative action, by operation of law or otherwise, or in the event any encumbrance of the Real Estate is created without Lender's prior written approval, Lender may, at its option, declare the indebtedness due and payable in full.
4. **Taxes, Utilities, and Liens.** The Owner shall pay promptly, when and as due, and, if requested, will exhibit promptly to the Lender receipts for the payment of all taxes, assessments, water rates, utility charges, dues, charges, fines, penalties, costs and other expenses incurred, and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Real Estate or any part thereof, or upon the revenues, rents, issues and profits of the Real Estate or arising in respect to the occupancy, use or possession thereof, or upon the interest of the Owner in the Real Estate, or any charge which, if unpaid, would become a lien or charge upon the Real Estate. Such taxes, assessments and other charges shall not be permitted to become delinquent.
5. **Hazard Insurance.** Owner will constantly keep in force fire and extended coverage insurance policies with respect to any and all buildings or equipment on said Real Estate. Such insurance will be provided in such a manner by such companies and for such amounts as may be required by Lender. Owner covenants to pay the premium on such policy or policies when due, to deliver to the Lender upon its request the official receipts for such premium payments.
6. **Covenant Against Waste; Care of the Property.** The Real Estate and the improvements thereon shall be kept in good condition and no waste committed or permitted thereon, reasonable natural wear and tear excepted. No building or other improvement on the Real Estate shall be structurally altered, removed or demolished, without the Lender's prior written consent, nor shall any fixture or chattel adapted to the proper use and enjoyment of the Real Estate be removed at any time without like consent. In the event of any breach of this covenant the Lender may, in addition to any other rights or remedies, at any time thereafter, declare the whole of the indebtedness secured by the Loan Documents immediately due and payable. Lender is hereby authorized to enter upon and inspect the Real Estate and to inspect the Owner's or Owner's agent's records with respect to the ownership, use, management and operation of the Real Estate, at any time during normal business hours.
7. **Mechanics' and Materialmen's Liens Prohibited.** Any lien which may be filed under the provisions of the statutes of Alabama, relating to the liens of mechanics and materialmen, shall be promptly paid and discharged by Owner and shall not be permitted to attach to the Real Estate.
8. **Governmental Compliance.** Owner shall comply with all laws, governmental standards, and regulations applicable to Owner or the Real Estate with regards to occupational safety, hazardous waste and materials, and environmental matters. Owner shall promptly notify Lender of its receipt of any nature of a violation by Owner or the Real Estate of any such law, standard, or regulation. Owner represent and warrant to Lender that there is not now, or will there be in the future, any asbestos or other harmful or regulated substances in the Real Estate or on the Real Estate or pending claims relating thereto. Owner shall indemnify and hold Lender harmless for any and all loss incurred by Lender as a result of Owner's breach of this warranty and representation. This indemnification shall survive the payment of the Promissory Note, the



exercise of any right or remedy under the Promissory Note or any Loan Document, and all similar or related events or occurrences.

9. **Events of Default.** Owner shall be deemed in default hereunder upon the occurrence of any of the following events ("Events of Default"): (a) if Owner defaults in the payment of any mechanic's lien, materialmen's lien, insurance premiums, taxes, or assessments now, or which may hereafter be levied against, or which may become a lien on the Real Estate, (b) if the Owner defaults in any of the covenants, conditions, and agreements herein contained; (c) if a receiver of Owner or of the Real Estate be appointed; (d) if Owner intentionally damages or attempts to remove any improvement from said Real Estate; (e) if all or any part of the Real Estate is condemned; or (f) if Owner sells, aliens, conveys, mortgages, encumbers, grants a security interest in, or disposes of the Real Estate

10. **Acceleration of Debt.** Upon the occurrence of an Event of Default or at any time thereafter, the Lender, or other holder or holders of the indebtedness evidenced by the Promissory Note and Loan Documents, shall have the option or right, without notice or demand, to declare all of said indebtedness then remaining unpaid immediately due and payable. Upon such acceleration, the Owner covenants to pay, in addition to all other amounts due, interest on the obligations unpaid until paid at the rate set forth in said Promissory Note.

11. **Waiver and Election.** No failure or delay of Lender to exercise any option herein given, shall be taken or construed as a waiver of its right to exercise such option. The procurement of insurance or the payment of taxes or other liens, debts, or charges by Lender shall not be taken or construed as a waiver of its right to declare the maturity of the indebtedness referred to herein, by reason of the failure of Owner to procure such insurance or to pay such taxes, debts, liens, or charges.

12. **Modifications or Extensions Not Affecting Agreement.** The parties expressly agree that: (a) any indebtedness at any time referred to herein may be extended, rearranged or renewed, and that any part of the terms hereof or in the Loan Documents may be waived or released without in any way altering, varying, or diminishing the force and effect of this instrument; (b) this instrument shall continue as a agreement pertaining to the Real Estate and will not be expressly released until all sums with interest and charges described in the Loan Documents, or renewals, modifications and extensions thereof, are fully paid; (c) no other security now existing or hereafter taken to secure the payment of said indebtedness or any part thereof shall in any manner be impaired or affected by the execution of this instrument; (d) no security subsequently taken by Lender or other holder or holders of said indebtedness shall in any manner impair or affect the rights given by this instrument; and (e) all security for the payment of said indebtedness or any part thereof shall be taken, considered and held as cumulative.

13. **Notices.** Wherever and whenever in this agreement it shall be required or permitted that notice or demand be given or served by any party, such notice or demand shall be given or served, and shall not be deemed to have been given or served unless in writing and forwarded by registered or certified mail, return receipt requested, or by overnight professional courier, addressed to the addresses of the parties indicated at the beginning of this agreement, or to such other address as either party may have given to the other by notice as hereinabove provided. Such notice shall be deemed given and shall be effective upon deposit in the United States Mail postage prepaid or into the hands of an overnight professional courier, all charges prepaid, addressed to

the above addresses or to such other address as either party may have given to the other by notice as hereinabove provided. Actual notice to Owner or Lender shall always be effective no matter how given or received.

14. **Meaning of Particular Terms.** Singular or plural words used herein to designate the Owner shall be construed to refer to the maker or makers of this agreement, whether one or more persons or a corporation, and all covenants and agreements herein contained shall bind the successors and assigns of the Owner, and every option, right, and privilege herein reserved or secured to Lender shall inure to the benefit of its successors and assigns. The headings of the sections hereof are for convenience or reference only, and are not to be considered a part hereof, and shall not limit or affect any of the terms hereof.

15. **Enforceability; Remedies Cumulative.** The unenforceability or invalidity of any provision or provisions of this agreement shall not render any other provision or provisions herein contained unenforceable or invalid. All rights or remedies of Lender hereunder are cumulative and not alternative, and are in addition to those provided by law.

IN WITNESS WHEREOF, the party constituting Owner has hereto set his hand and seal hereto effective as of the date first above written.

**THE VALLEYDALE BAPTIST CHURCH, an Alabama non-profit corporation**

BY: Jack H Wisdom  
(Its Authorized Agent)

BY: E G Griffin  
(Its Authorized Agent)

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Jack Wisdom and E G Griffin, whose name as Authorized Agent of THE VALLEYDALE BAPTIST CHURCH, an Alabama non-profit corporation, 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, they, as such authorized agent, and with full authority, executed the same voluntarily, as an act of said corporation, acting in its capacity as aforesaid.

Given under my hand and official seal, this the 9th day of October, 2002.

Bonnie B. Shelton  
NOTARY PUBLIC My Commission Expires 11-3-2004  
My Commission Expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY AND AFTER  
RECORDATION SHOULD BE RETURNED TO:

William B. Hairston, III  
ENGEL, HAIRSTON & JOHANSON, P.C.  
109 North 20th Street, Fourth Floor  
P.O. Box 370027  
Birmingham, Alabama 35237  
(205) 328-4600



**EXHIBIT "A"**  
**TO**  
**NEGATIVE PLEDGE AGREEMENT**  
**HAZARDOUS SUBSTANCE INDEMNIFICATION AND WARRANTY AGREEMENT**

BORROWER: THE VALLEYDALE BAPTIST CHURCH  
LENDER: AMSOUTH BANK

A portion of land situated in the SE 1/4 of the NE 1/4 and in the NE 1/4 of the SE 1/4 of Section 20, Township 19 South, Range 2 West, and being more particularly described as follows: Begin at the Southwest corner of the SE 1/4 of the NE 1/4 of Section 20, Township 19 South, Range 2 West, Shelby County, Alabama; thence run North along the West line of said 1/4 1/4 section a distance of 328.20 feet; thence run right 91 deg. 48 min. and run East a distance of 485.01 feet; thence run right 50 deg. 58 min. and run Southeasterly a distance of 421.36 feet; thence turn left 51 deg. 00 min. and run East a distance of 93.35 feet to the Northwesternly right of way line of Shelby County Road #17 (Valleydale Road); thence turn right 141 deg. 50 min. 28 sec. and run Southwesterly along said Northwesternly right of way line a distance of 920.93 feet; thence turn right 4 deg. 30 min. 37 sec. and continue Southwesterly along said right of way line a distance of 133.35 feet; thence turn right 135 deg. 30 min. and run North and parallel to the West line of the NE 1/4 of the SE 1/4 of said section 19 a distance of 242.93 feet; thence turn right 44 deg. 30 min. and run Northeasterly and parallel to said right of way line a distance of 182.0 feet; thence turn left 132 deg. 42 min. and run West and parallel to the north line of the NE 1/4 of the SE 1/4 of said section 19 a distance of 254.56 feet to a point 20 feet east of the West line of said 1/4 1/4 section; thence turn left 91 deg. 48 min. and run South and parallel to the west line of said 1/4 1/4 section a distance of 510.09 feet to the Northwesternly right of way line of said county road; thence turn right 44 deg. 30 min. and run Southwesterly along said right of way line a distance of 28.53 feet to the west line of the NE 1/4 of the SE 1/4 of said Section 19; thence turn right 135 deg. 30 min. and run North along the West line of said 1/4 1/4 section a distance of 975.65 feet to the point of beginning.

Less and Except the following:

Begin at the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of Section 20, Township 19 South, Range 2 West, thence North along the West line 280.06 feet to the center line of Shelby County Road No. 17, known as Valley Dale Road; thence right 44 deg. 30 min. a distance of 20 feet to the point of beginning; thence North and parallel with the West line of the 1/4 1/4 section, 300 feet; thence Northeasterly and parallel with said road 181 feet; thence South and parallel with the 1/4 1/4 section line 300 feet more or less, to the center line of road; thence Southwesterly along the road 181 feet more or less to the point of beginning.

EXHIBIT "A" (continued)

Also Less and Except the following:

Begin at the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of Section 20, Township 19 South, Range 2 West, thence North along the West line 280.06 feet to the center line of Shelby County Road No. 17, known as Valleydale Road; thence right 44 deg. 30 min. a distance of 20 feet; thence North and parallel with the West line of the 1/4 1/4 section 300 feet; thence Northeasterly and parallel with said road 181 feet to the point of beginning; thence Northeasterly and parallel with said road 182 feet; thence South and parallel with the 1/4 1/4 section line 300 feet more or less to the center line of road; thence Southwesterly along the road 182 feet more or less to the point of beginning.

Also, Less and Except the following:

Begin at the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 20, Township 19 South, Range 2 West, thence North along the West line 280.06 feet to the center line of Shelby County Road No. 17, known as Valleydale Road; thence right 44 deg. 30 min. a distance of 20 feet which is set aside as driveway; thence North and parallel with the West line of said 1/4 1/4 section 300 feet to the point of beginning; thence right Northeasterly and parallel with above said road 363 feet more or less to a point 300 feet North of said road; thence left due West to a point 20 feet of said West line of 1/4 1/4 section; thence left due South to point of beginning.

All being situated in Shelby County, Alabama.

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Begin at the Southeast corner of the SE 1/4 of the NE 1/4 of Section 20, Township 19 South, Range 2 West, thence North along the East line of said 1/4 1/4 section 327.38 feet to the North east corner of the South 10 acre tract of said 1/4 1/4 section; thence 88 deg. 08 min. left and West along the North line of said 10 acre tract 833.11 feet; thence 129 deg. 02 min. left in a Southeasterly direction 421.36 feet to the South line of said 10 acre tract; thence 51 deg. 00 min. left and east 579.37 feet to the point of beginning.

Less and Except the following:

Begin at the SE corner of the SE 1/4 of the NE 1/4 of Section 20, Township 19 South, Range 2 West, Shelby County, Alabama; thence Northerly along the East line of said 1/4 1/4 line 52.7 feet; thence 55 deg. 17 min. left Northwesterly 268.0 feet to the East right of way boundary of Valleydale Road; thence 84 deg. 22 min. left Southwesterly, along said right of way 253.3 feet to the South line of 1/4 1/4 section line; thence 128 deg. 31 min. left easterly along said 1/4 1/4 line 384.5 feet to the point of beginning.

EXHIBIT "A" (continued)

Also Less and Except the following:

Begin at the SE corner of the SE 1/4 of the NE 1/4 of Section 20, Township 19 South, Range 2 West, Shelby County, Alabama; thence Northerly along the East line of said 1/4 1/4 section a distance of 52.7 feet to the point of beginning of tract of land herein described; thence continue along the last mentioned course 274.68 feet; thence left 88 deg. 08 min. Westerly 113.5 feet to the East right of way boundary of Valleydale Road; thence 51 deg. 31 min. left Southwesterly along said right of way 165.0 feet; thence 95 deg. 38 min. left Southeasterly 268.0 feet to the point of beginning.

All being situated in Shelby County, Alabama.

PARCEL I:

A tract of land situated in the SE 1/4 of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama, more particularly described as follows:

Commence at the Northwest corner of the NE 1/4 of the SE 1/4 of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama and run thence Southeasterly along the diagonal line of the NE 1/4 of the SE 1/4 a distance of 349.87 feet to the South side of Valleydale Road; thence turn 115°07' right and run Southwesterly along the South margin of said Valleydale Road a distance of 458.83 feet to the P.C. of a curve to the left having a radius of 908.22 feet; thence continue along the arc of said curve an arc distance of 41.17 feet to the point of beginning of the property being described; thence turn 112°13' left from tangent and run Southeasterly a distance of 756.66 feet to a point; thence turn 88°20'12" right and run Southwesterly 449.86 feet to a point on the Northeasterly right of way of McGuire Road; thence turn 95°29'26" right and run Northwesterly along said right of way line of said McGuire Road 96.48 feet to the P.C. of a curve to the right having a central angle of 4°20'51" and a radius of 1,316.26 feet; thence continue along the arc of said curve an arc distance of 99.87 feet to the P.T. of said curve; thence continue along the tangent of last curve to a tangent distance of 70.82 feet to the P.C. of a curve to the left having a central angle of 24°51'11" and a radius of 640.01 feet; thence continue along the arc of said curve an arc distance of 277.62 feet to the P.T. of said curve; thence continue along the tangent of last curve a tangent distance of 296.61 feet to a point on the Southerly margin of Valleydale Road; thence turn 112°35'50" right to chord and run Northeasterly along the arc of said curve an arc distance of 536.71 feet to the point of beginning; being situated in Shelby County, Alabama.



EXHIBIT "A" (continued)

PARCEL II:

A tract of land situated in the SE  $\frac{1}{4}$  of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama, more particularly described by metes & bounds as follows:

Commence at the Northeast corner of the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama and run thence Westerly along the North line of said  $\frac{1}{4}$  section a distance of 408.09 feet to a point; thence turn  $91^{\circ}25'00''$  left and run Southerly a distance of 418.40 feet to a point; thence turn  $12^{\circ}01'00''$  left and run 293.30 feet to a point; thence turn  $45^{\circ}37'00''$  right and run 199.55 feet to a point; thence turn  $100^{\circ}17'00''$  left and run 56.78 feet to a point; thence turn  $89^{\circ}41'00''$  right and run 30.0 feet to the point of beginning of the property being described; thence turn  $2^{\circ}27'00''$  left and run Southwesterly 156.00 feet to a point; thence turn  $90^{\circ}56'54''$  right and run Northwesterly 271.12 feet to a point on the Southeasterly margin of Valleydale Road; thence turn  $93^{\circ}43'57''$  right and run Northeasterly along the said margin of said Valleydale Road 164.50 feet to a point marking the intersection of the South margin of McGuire Road and the Southeasterly margin of Valleydale Road, said point being within the asphalt of McGuire Road; thence turn  $88^{\circ}04'59''$  right and run Southeasterly along the said South margin of said McGuire Road a distance of 257.96 feet to the point of beginning; being situated in Shelby County, Alabama.

PARCEL III:

A tract of land in the SE  $\frac{1}{4}$  of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama, described as follows:

Commence at the Northwest corner of the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama and run Southeasterly along a diagonal line of the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  a distance of 349.87 feet to the South side of Valleydale Road, thence  $115^{\circ}07'$  to the right in a Southwesterly direction along said road a distance of 458.83 feet to the point of curve to the left having a radius of 908.22 feet and a central angle of  $02^{\circ}35'50''$  and run along the arc of said curve a distance of 41.17 feet, thence  $112^{\circ}13'$  to the left of the tangent of said curve in a Southeasterly direction and parallel with the diagonal line of the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  a distance of 756.66 feet to the point of beginning of the property herein described, thence continue along last described course a distance of 204.96 feet to a point, thence turn  $88^{\circ}35'16''$  to the right a distance of 459.79 feet to a point on the North right of way line of County Road 369, thence turn  $94^{\circ}13'26''$  to the right and run along the right of way of said County Road a distance of 203.48 feet to a point, thence turn  $85^{\circ}31'29''$  to the right a distance of 449.86 feet to the point of beginning; being situated in Shelby County, Alabama.

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The North 30 acres of the Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 20, Township 19 South, Range 2 West, in Shelby County, Alabama; being situated in Shelby County, Alabama