

STATE OF ALABAMA)
COUNTY OF SHELBY)

125

REAL ESTATE MORTGAGE

This Mortgage made and entered into on this the 31st day of August, 1983, by and between the undersigned, DAVID F. BYERS (hereinafter called "Borrowers," whether one or more) and WILLIAM H. PARSONS AND CO., INC. (hereinafter called "Lender");

WITNESSETH:

WHEREAS, Borrowers are justly indebted to Lender in the sum of One Hundred Fifty Five Thousand Dollars (\$155,000.00) as evidenced by a promissory note of even date herewith, payable according to the terms thereof.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises and for the purpose of securing the payment of the above-described promissory note and any renewal and/or refinancing thereof, and the payment and performance of all the covenants and agreements hereinafter stated, the Borrowers do hereby grant, bargain, sell and convey unto Lender that property situated in the County of Shelby, State of Alabama, described in Exhibit A attached hereto and incorporated herein by reference.

This is a PURCHASE MONEY MORTGAGE executed to secure the payment of the purchase money for the property described above conveyed to Lender by Borrowers this date.

TO HAVE AND TO HOLD the above-described property, together with all and singular, the rights, privileges, tenements, appurtenances and improvements unto Lender, its successors and assigns forever. And Borrowers do hereby warrant, covenant, and represent unto Lender, its successors and assigns, that they are lawfully seized of the above-described property in fee, have a good and lawful right to sell and convey said property, and shall forever defend the title to said property against the lawful claims and demands of all persons whomsoever, and that said real property is free and clear from all encumbrances except as stated above.

1. Prior Liens. Borrowers warrant and covenant that all payments, conditions and provisions made and provided for in any prior encumbrances (resulting from a subordination of this mortgage by Lender under the express terms hereof) and/or other liens prior hereto, hereinafter collectively called "prior liens", shall be performed promptly when due, but if Borrowers suffer or permit default under any prior lien, then such shall constitute a default hereunder and Lender may, at its option and without notice, declare the indebtedness secured hereunder immediately due and payable, whether due according to its face or not, and commence proceedings for the sale of the above-described property in accordance with the provisions herein made. If default is suffered or permitted under any prior lien, then Lender may cure such default by making such payments, or performing otherwise as the holder of the prior lien may permit, or Lender may purchase or pay in full such prior lien, and all sums so expended by Lender, shall be secured hereunder or under such prior lien instruments; provided however, such payment, performance and/or purchase of the prior lien by Lender shall not for the purpose of this instrument be construed as satisfying the defaults of Borrowers under said prior lien.

2. Other Property. Included in this conveyance is (1) all heating, plumbing, air conditioning, lighting fixtures, doors, windows, screens, storm windows or sashes, shades, equipment and all other equipment and fixtures now or hereafter attached to or used in connection with the property described above; (2) all rent, issues and profits under any lease now or hereafter existing on said premises and in the event of default hereunder, Lender shall have the right to call upon any lessees of said property to make all future payments due Borrowers directly to Lender without including Borrowers' name in said payment, and payment so made by the lessees to Lender shall constitute payment to Borrowers and Lender shall have the right to receipt for such sums so paid which shall be as binding upon Borrowers as if

North, Haskell et al

Borrowers had signed the receipt themselves and the lessees are relieved of the necessity to see to the application of any such payment.

3. Taxes. Borrowers promise to pay all taxes and assessments now or hereafter levied on the above-described property promptly when due.

4. Insurance. Unless otherwise agreed herein, Borrowers promise to procure, maintain, keep in force and pay for, insurance on all improvements now or hereafter erected on the above-described real estate, insuring same against loss or damage by fire, windstorm, and other casualties normally insured against, in such sums, with such insurers, and in an amount approved by the Lender, as further security for the said mortgage debt, and said insurance policy or policies, with mortgage clause in favor of, and in form satisfactory to, the Lender, and delivered to said Lender, with all premiums thereon paid in full. In the event of loss or damage to the property, it is agreed that the amount of loss or damage recoverable under said policy or policies of insurance shall be paid to the Lender and Lender is hereby empowered in the name of Borrowers to give full acquittal for the amount paid and such amount shall be credited to the installments to become due on the promissory note in inverse order, that is, satisfying the final maturing installments first and if there be an excess, such excess shall be paid by Lender to Borrowers; but in the event such payments are not sufficient to satisfy in full the debt secured hereby, such payment shall not relieve the Borrowers of making the regular monthly installments as same become due.

5. Default; Remedies.

(a) Upon condition, however, that if the said Borrowers pay said indebtedness, perform all their covenants and agreements herein, and reimburse said Lender or assigns for any amounts Lender may have expended for taxes, assessments, and insurance, and interest thereon, then this conveyance to be null and void; but should default be made in the payment of any sum expended by the said Lender or assigns, or should said indebtedness hereby secured, or any part thereof, or the interest thereon, remain unpaid at maturity, or should the interest of said Lender or assigns in said property become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, or if Borrowers default in any of the covenants and agreements on their part to be performed hereunder, then in any one of said events, the whole of said indebtedness hereby secured shall at once become due and payable, and this Mortgage be subject to foreclosure as now provided by law in case of past due mortgages, and the said Lender, agents or assigns, shall be authorized to take possession of the premises hereby conveyed, and with or without first taking possession, after giving twenty-one days' notice, by publishing once a week for three consecutive weeks, the time, place and terms of sale, by publication in some newspaper published in said County and State, sell the same in lots or parcels or en masse as Lender, agents or assigns deem best, in front of the Court House door of said County (or the division thereof) where said property is located, at public outcry, to the highest bidder for cash, and apply the proceeds of the sale: First, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; Second, to the payment of any amounts that may have been expended, or that it may then be necessary to expend, in paying insurance, taxes, or other encumbrances, with interest thereon; Third, to the payment of said indebtedness in full, whether the same shall or shall not have fully matured at the date of said sale; and Fourth, the balance, if any, to be turned over to the said Borrowers and undersigned further agree that said Lender, agents or assigns may bid at said sale and purchase said property, if the highest bidder therefor; and undersigned further agree to pay a reasonable attorney's fee to said Lender or assigns, for the foreclosure of this mortgage in Chancery, should the same be so foreclosed, said fee to be a part of the debt hereby secured. Borrowers further agree to pay any cost of collecting the debt secured hereby whether through foreclosure or otherwise or in protecting any of Lender's rights hereunder, whether suit is filed or not.

(b) Borrowers hereby waive all homestead exemption, dower or curtesy rights, and all and every other rights and exemptions which they have or may have under the constitution and laws of the State of Alabama to have the above-described property and/or any other property which they now or may hereafter own exempt from the sale hereunder or levy and sale under legal process, it being the true intent and meaning of this waiver of exemption to subject the property that Borrowers now own or may hereafter own to the payment in full of the promissory note and other obligations set forth in this Mortgage.

(c) In the event of a sale under the power conferred by this Mortgage, Lender shall have the right and it is hereby authorized to purchase said property at such sale. In the event the above-described property is sold under this Mortgage, the auctioneer making such sale or the Probate Judge of said County and State wherein the land lies, is hereby empowered and directed to make and execute a deed to the purchasers of same and the Borrowers herein covenant and warrant the title so made against the lawful claims and demands of all persons whomsoever.

(d) In the event any prior lien is foreclosed and such foreclosure proceedings bring an amount sufficient to pay in full said prior lien and there remains an excess sum payable to Borrowers, then Borrowers do hereby irrevocably assign their interest in and to said fund to Lender and the holder of said excess fund is hereby authorized and directed to pay same directly over to Lender without including the name of Borrowers in said payment and a receipt by Lender shall be as binding on Borrowers as if Borrowers had signed same themselves and Borrowers further relieve the party paying said sum to Lender, of the necessity of seeing to the application of said payment.

6. Condemnation. In the event the premises or any part thereof are taken under the power of eminent domain, the entire award shall be paid to Lender and credited to the installments to become due on said promissory note in inverse order, that is, satisfying the final maturing installments first, and the Lender is hereby empowered in the name of the Borrowers, or their assigns, to receive and give acquittance for any such award or judgment whether it be joint or several.

7. Failure to Insure. If Borrowers fail to keep said property insured as above specified, or fail to deliver said insurance policies to said Lender, then the said Lender, or assigns, may at Lender's option insure said property for said sum, for Lender's own benefit, the policy if collected, to be credited on said indebtedness, less cost of collecting same; all amounts so expended by said Lender for taxes, assessments or insurance, shall become a debt to said Lender or assigns, additional to the debt hereby specially secured, and shall be covered by this Mortgage, and bear interest from date of payment by said Lender, or assigns, at the rate specified in the said promissory note, and be at once due and payable.

8. Due-on-Sale or Encumbrance. Without the prior written consent of the Lender, the Borrowers shall not encumber any interest in the Mortgaged Property or sell, contract to sell, lease with option to purchase, or otherwise transfer any interest in the Mortgaged Property. Lender's consent may be conditioned upon an increase in the interest rate specified in the said promissory note secured hereby and an approval of the credit of any such grantee, vendee, optionee, or transferee, and/or a change in any of the other terms and conditions of this mortgage or in any of the related loan documents. Any conveyance, sale, encumbrance, option, or transfer of the Mortgaged Property without the consent of Lender shall be void. Provided, however, that this provision shall not prohibit a transfer of the Mortgaged Property by devise or descent upon the death of Borrowers or either of them; and, if Lender consents to a transfer conditioned upon an increase in the said interest rate, the said interest rate shall not be increased above the prime rate charged by AmSouth Bank N.A. at its main office in Birmingham, Alabama, at the time of such consent, and the said interest rate charged under said note shall fluctuate as the said prime rate may fluctuate from time to time.

9. Subordination. Lender agrees to subordinate this mortgage to the lien of construction mortgages with respect to five acres of land, in five one-acre plots, the location of each said acre being generally located on Exhibit B attached hereto; together with a thirty-foot joint, non-exclusive private easement to each one acre plot. Provided, however, that no said acre or easement shall be situated in the pasture now existing on the Mortgaged Property; no acreage on which the barn now existing on the Mortgaged Property shall be subject to any such subordination; and this mortgage shall be subordinated as provided herein only to construction mortgages executed solely for the purpose of constructing residences and providing permanent financing for said residences on each said one-acre tract. The said easements may be used, on default by Borrowers hereunder, by Lender or Lender's successors and assigns, with respect to the balance of the Mortgaged Property. Provided further, however, that said subordinations shall be delivered upon condition that no default exists on the part of Borrowers hereunder; that Ten Thousand Dollars (\$10,000) cash is paid to Lender for each acre to be subordinated (except for one acre for Borrowers' own personal residence); and that a survey of each acre to be

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subordinated shall be delivered to Lender. All amounts paid for such subordinations shall be applied to the last principal payments due under the note. Lender will subordinate the above-described parcels, strictly under the conditions set forth herein, at any time during the term of this mortgage. Lender agrees to execute subordination documents as required herein within thirty days from the initial written request of Borrowers for the same, on condition that all of the aforementioned conditions to Lender's obligation to execute subordinations have been followed and completed in full. The consideration for each subordination shall be delivered to Lender in cash simultaneously upon execution by Lender of each subordination document and delivery of the same to Borrowers.

10. Miscellaneous. It is specifically agreed that time is of the essence of this contract and that no delay in enforcing any obligation hereunder or of the obligations secured hereby shall at any time hereafter be held to be a waiver of the terms hereof or of any of the instruments secured hereby.

If less than two join in the execution hereof as Borrowers, or may be of the feminine sex, the pronouns and related words herein shall be read as if written in singular or feminine respectively. The covenants herein contained shall bind, and the benefits and advantages inured to, the respective heirs, successors and assigns of the parties named. The headings and captions herein are for convenience only and shall not limit any other provision herein.

IN WITNESS WHEREOF, the said Borrowers have hereunto set their hands and seals this the day and date first above written.

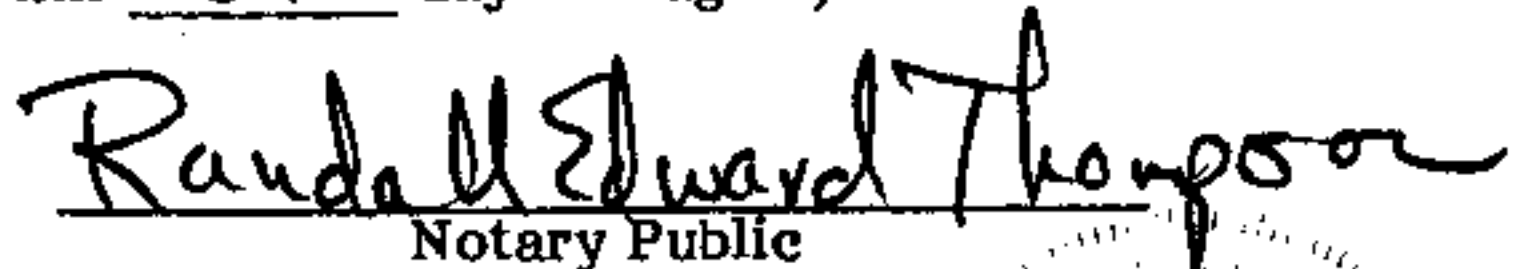
 [SEAL]
DAVID F. BYERS

 [SEAL]
MARY ANN BYERS

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said County and State aforesaid, hereby certify that DAVID F. BYERS and wife, MARY ANN BYERS, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the date the same bears date.

Given under my hand and official seal this 31 day of August, 1983.


Notary Public

My Commission Expires: 2-5-84

This instrument was prepared by
GUY V. MARTIN, JR.
1710 First National - Southern Natural Bldg.
BIRMINGHAM, ALABAMA 35203

EXHIBIT A

A tract of land in Shelby County, Alabama, particularly described as follows: Begin at the SW corner of SW 1/4 of NE 1/4 of Section 28, Township 18, Range 1 West, from said corner go North 86 deg. 30 min. East along the South line of SW 1/4 of NE 1/4 198 feet, thence North 2 deg. 30 min. West, 1320 feet; thence South 86 deg. 30 min. West 198 feet, thence South 2 deg. 30 min. East 509 feet, thence North 65 deg 30 min. West 1522 feet to West line of NE 1/4 of NW 1/4; thence South 2 deg. 30 min. East 200 feet to SE corner of NW 1/4 of NW 1/4; thence South 42 deg. 30 min. West 700 feet; thence South 70 deg. 40 min. East 495 feet to West line of SE 1/4 of NW 1/4; thence South 62 deg. 30 min. East 1250 feet; thence South 32 deg. 40 min. West 623 feet; thence South 57 deg. 20 min. East 750 feet; thence North 2 deg. 30 min. West 940 feet to the point of beginning; being situated in Shelby County, Alabama.

SUBJECT TO: (1) existing rights of way, encroachments, easements, boundary lines, and any matters not of record that would be disclosed by an inspection and survey of the property; (2) title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights conveyed in Deed Book 322 Page 986 in Probate Office; and (3) subject to unrecorded transmission line permit to Alabama Power Company and unrecorded Old County Road right of way as shown in Deed Book 207 Page 131.

Mary Ann Byers, as wife of David F. Byars has executed this mortgage solely to convey her marital rights and she is not personally liable on this mortgage or the note secured hereby.

MAB


03
142 AC

RET

SKETCH OF MORTGAGED PROPERTY

100' 300' 100' 300'

PASTURE

08
33 AC

SOUTH PRONG

08
7 AC

SHIRLEY A. SHELBY CO.
DEED BY THIS
OFFICE

1983 SEP -6 AM 8:25

Thomas A. Shivers, Jr.
JUDGE OF PROBATE

Mtg TAX	232.50
Rec	9.00
Ind	1.00
	<u>242.50</u>

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10
53 AC

⊗ : DENOTES ONE-ACRE PLOTS
SUBJECT TO SUBORDINATION
AGREEMENT.

EXHIBIT B TO
MORTGAGE