

STATE OF ALABAMA)
JEFFERSON COUNTY)

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MORTGAGE

This indenture is made and entered into this 3rd day of June,
19 89, by and between AMERICAN TIRE & AUTO CENTER, INC.
(hereinafter called "Mortgagor", whether one or
more) and H. E., INC., a corporation
(hereinafter called "Mortgagee").

WHEREAS, AMERICAN TIRE & AUTO CENTER, INC.
is (are) justly indebted to the Mortgagee in the amount of Eighty Thousand and
No/100----- dollars (\$ 80,000.00),
as evidenced by that certain promissory note dated June 3, 1989
which bears interest as provided therein and which has a final maturity
date of June 3, 1992.

Now therefore, in consideration of the premises, and to secure the
payment of the debt, evidenced by said note or notes and any and all extensions
and renewals thereof, or of any part thereof, and all interest payable on
all of said debt and on any and all such extensions and renewals (the aggregate
amount of such debt and interest thereon, including any extensions and renewals
and the interest thereon, is hereinafter collectively called "Debt") and
the compliance with all the stipulations herein contained, the Mortgagor
does hereby grant, bargain, sell and convey unto the Mortgagee the following
described real estate situated in Shelby County, Alabama
(said real estate being hereinafter called "Real Estate"):

Begin at the Northwest Corner of the Southwest One Quarter of the
Northwest One Quarter of Section 21, Township 19 South, Range 2 West;
run thence in an Easterly direction along the North line of said
Quarter-Quarter Section for a distance of 439.04 feet to a point on
the Northwesterly right-of-way line of County Road #17; thence run an
angle to the right of 111 degrees 16 minutes and run in a
Southwesterly direction along the Northwesterly right-of-way line of
County Road #17 for a distance of 118.7 feet; thence turn an angle to
the right of 67 degrees 34 minutes and run in a Westerly direction for
a distance of 390.82 feet to a point on the West line of the Southwest
Quarter of the Northwest Quarter of Section 21, Township 19 South,
Range 2 West; thence turn an angle to the right of 88 degrees 38
minutes and run in a Northerly direction along the West line of said
Quarter-Quarter Section for a distance of 118.7 feet to the point of
beginning.

This is a purchase money mortgage. The proceeds of this loan have
been applied to the purchase price of the property described herein
conveyed to mortgagors simultaneously herewith.

Together with all rights, privileges, tenements, appurtenances and
fixtures appertaining to the Real Estate, all of which shall be deemed Real
Estate and conveyed by this mortgage.

To have and to hold the Real Estate unto the Mortgagee, its successors
and assigns forever. The Mortgagor covenants with the Mortgagee that the
Mortgagor is lawfully seized in fee simple of the Real Estate and has a
good right to sell and convey the Real Estate as aforesaid; that the Real
Estate is free of all encumbrances, except as otherwise set forth herein,
and the Mortgagor will warrant and forever defend the title to the Real
Estate unto the Mortgagee, against the lawful claims of all persons.

For the purpose of further securing the payment of the Debt, the Mortgagor
agrees to: (1) pay all taxes, assessments, and other liens taking priority
over this mortgage (hereinafter jointly called "Liens"), and if default
is made in the payment of the Liens, or any part thereof, the Mortgagee,
at its option, may pay the same. (2) Mortgagor to furnish Mortgagee with
receipted tax bill annually. (3) Keep the Real Estate continuously insured,
in such manner and with such companies as may be satisfactory to the Mortgagee,
against loss by fire, vandalism, malicious mischief and other perils usually
covered by a fire insurance policy with standard extended coverage endorsement,
with loss, if any, payable to the Mortgagee, as its interest may appear;
such insurance to be in an amount sufficient to cover the Debt and the indebtedness

David F. Ollan

secured by any prior mortgage. The original insurance policy and all replacements therefor, shall be delivered to and held by the Mortgagee until the Debt is paid in full. The insurance policy must provide that it may not be cancelled without the insurer giving at least fifteen days prior written notice of such cancellation to the Mortgagee at the following address:

Rt. 1 Box 664

Maylene, Al. 35117

The Mortgagor hereby assigns and pledges to the Mortgagee as further security for the payment of the Debt each and every policy of hazard insurance now or hereafter in effect which insures said improvements, or any part thereof, together with all the right, title and interest of the Mortgagor in and to each and every such policy, including but not limited to all of the Mortgagor's right, title and interest in and to any premiums paid on such hazard insurance, including all rights to return premiums. If the Mortgagor fails to keep the Real Estate insured as specified above, then, at the election of the Mortgagee and without notice to any person, the Mortgagee may declare the entire Debt due and payable and this mortgage subject to foreclosure, the Mortgagee may, but shall not be obligated to, insure the Real Estate for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risks of loss, for its own benefit, the proceeds from such insurance (less the cost of collecting same), if collected, to be credited against the Debt, or at the election of the Mortgagee, such proceeds may be used in repairing or reconstructing the improvements located on the Real Estate. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagor and at once payable, without demand upon or notice to the Mortgagor, and shall be secured by the lien of this mortgage, and shall bear interest from date of payment by the Mortgagee until paid at the rate of 9% per annum or the highest rate then permitted by law, whichever shall be less.

Subject to the rights of the holder of the prior mortgage set forth for the above, if any, the Mortgagor hereby pledges and assigns to the Mortgagee as further security for the payment of the Debt the following rights, claims, rents, profits, issues and revenues:

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1. all rents, profits, issues, and revenues of the Real Estate from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to the Mortgagor, so long as the Mortgagor is not in default hereunder, the right to receive and retain such rents, profits, issues and revenues;

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2. all judgements, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Real Estate, or any part thereof, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Real Estate, or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets, and all payments made for the voluntary sale of the Real Estate, or any part thereof, in lieu of the exercise of the power of eminent domain. The Mortgagee is hereby authorized on behalf of, and in the name of, the Mortgagor to execute and deliver valid acquittances for, and appeal from, any such judgements or awards. The Mortgagee may apply all such sums so received, or any part thereof, after the payment of all the Mortgagee's expenses, including court costs and attorneys' fees, on the Debts in such manner as the Mortgagee elects, or, at the Mortgagee's option, the entire amount or any part thereof so received may be released or may be used to rebuild, repair or restore any or all of the improvements located on the Real Estate.

The Mortgagor agrees to take good care of the Real Estate and all improvements located thereon and not to commit or permit any waste thereon, and at all times to maintain such improvements in as good condition as they now are, reasonable wear and tear expected.

Notwithstanding any other provision of the mortgage or the note or notes evidencing the Debt, if the Real Estate, or any part thereof, or any

part thereof, or any interest therein, is sold, conveyed or transferred, without the Mortgagee's prior written consent, the Mortgagee may, at its option, declare the Debt immediately due and payable; and the Mortgagee may, in its sole discretion, require the payment of a higher rate of interest on the unpaid principal portion of the Debt as a condition to not exercising such option to accelerate the Debt. The Mortgagor agrees that the Mortgagee may, if the Mortgagee desires, accelerate the Debt or escalate the rate of interest payable on the Debt for the purpose of (1) obtaining a higher rate of interest on the Debt or (2) protecting the security of this mortgage. Mortgagee may withhold consent to any such sale, conveyance or transfer reasonably, unreasonably, or for no reason at all.

The Mortgagor agrees that no delay or failure of the Mortgagee to exercise any option to declare the Debt due and payable shall be deemed a waiver of the Mortgagee's right to exercise such option, either as to any past or present default, and it is agreed that no terms or conditions contained in this mortgage may be waived, altered or changed except by a written instrument signed by the Mortgagor and signed on behalf of the Mortgagee by one of its officers.

After default on the part of the Mortgagor, the Mortgagee, upon bill filed or other proper legal proceeding being commenced for the foreclosure of this mortgage, shall be entitled to the appointment by any competent court, without notice to any part, of a receiver for the rents, issues and profits of the Real Estate, with power to lease and control the Real Estate, and with such other powers as may be deemed necessary.

Upon condition, however, that if the Mortgagor pays the Debt (which Debt includes the indebtedness evidenced by the promissory note or notes referred to hereinbefore and any and all extensions and renewals thereof and all interest on said indebtedness and on any and all such extensions and renewals) and reimburses the Mortgagee for any amounts the Mortgagee has paid in payment of Liens, or insurance premiums, and sums due under any prior mortgage, and interest thereon, and fulfills all of its obligations under this mortgage, this conveyance shall be null and void. But if: (1) any warranty or representation made in this mortgage is breached or proves false in any material respect; (2) default is made in the due performance of any covenant or agreement of the Mortgagor under this mortgage; (3) default is made in the payment to the Mortgagee of any sum paid by the Mortgagee under the authority of any provision of this mortgage; (4) the Debt, or any part thereof, remains unpaid at maturity; (5) the interest of the Mortgagee in the Real Estate becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon; (6) any statement of lien is filed against the Real Estate, or any part thereof, under the statutes of Alabama relating to the liens of mechanics and materialmen (without regard to the existence or nonexistence of the debt or the lien on which such statement is based); (7) any law is passed imposing or authorizing the imposition of any specific tax upon this mortgage or the Debt or permitting or authorizing the deduction of any such tax from the principal or interest of the Debt, or by virtue of which any tax, lien or assessment upon the Real Estate shall be chargeable against the owner of this mortgage; (8) any of the stipulations contained in this mortgage is declared invalid or inoperative by any court of competent jurisdiction; (9) Mortgagor, or any of them (a) shall apply for or consent to the appointment of a receiver, trustee or liquidator thereof or of the Real Estate or of all or a substantial part of such Mortgagor's assets, (b) be adjudicated a bankrupt or insolvent or file a voluntary petition in bankruptcy, (c) fail, or admit in writing such Mortgagor's inability generally to pay such Mortgagor's debts as they come due, (d) make a general assignment for the benefit of credits, (e) file a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or (f) file an answer admitting the material allegations of, or consent to, or default in answering, a petition filed against such Mortgagor in any bankruptcy, reorganization or insolvency proceedings; or (10) an order for relief or other judgement or decree shall be entered by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Mortgagor, or any of them if more than one, or appointing a receiver, trustee or liquidator of any Mortgagor or of the Real Estate or of all or a substantial part of the assets of any Mortgagor, then, upon the happening of any one or more of said events, at the option of the Mortgagee, the unpaid balance of the Debt (which includes principal

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and accrued interest) shall at once become due and payable and this mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages; and the Mortgagee shall be authorized to take possession of the Real Estate, and, after giving at least twenty-one days notice of the time, place, and terms of sale by publication once a week for three consecutive weeks in some newspaper published in the county in which the Real Estate is located, to sell the Real Estate in front of the courthouse door of said county, at public outcry, to the highest bidder for cash, and to apply the proceeds of said sale as follows: first, to the expense of advertising, selling and conveying the Real Estate and foreclosing this mortgage, including a reasonable attorney's fees (provided however, that if this mortgage is subject to § 5-19-10, CODE OF ALABAMA 1975, such attorney's fees shall not exceed 15% of the unpaid Debt after default and referral to an attorney not a salaried employee of the Mortgagee and no such attorney's fees shall be collectible if the original principal amount or the original amount financed does not exceed \$300.00); second, to the payment of any amounts that have been spent, or that it may then be necessary to spend, in paying insurance premiums, Liens or other encumbrances, with interest thereon; third, to the payment in full of the balance of the Debt (which includes principal and accrued interest) whether the same shall or shall not have fully matured at the date of said sale, but not interest shall be collected beyond the day of sale; and fourth, the balance, if any, to be paid to the party or parties appearing of record to be the owner of the Real Estate at the time of the sale, after deducting the cost of ascertaining who is such owner. The Mortgagor agrees that the Mortgagee may bid at any sale had under the terms of this mortgage and may purchase the Real Estate if the highest bidder therefor. At the foreclosure sale the Real Estate may be offered for sale and sold as a whole without first offering it in any other manner or it may be offered for sale and sold in any other manner the Mortgagee may elect.

The Mortgagor agrees to pay all costs, including reasonable attorney's fees (not exceeding 15% of the unpaid Debt after a default and referral to an attorney not a salaried employee of the Mortgagee, if this mortgage is subject to § 5-19-10, CODE OF ALABAMA 1975, and no such attorney's fees shall be collectible if the original principal amount or original amount financed does not exceed \$300.00) 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 or encumbrance on the Real Estate, unless this mortgage is herein expressly made subject to any such lien or encumbrance; and/or 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. The full amount of such costs incurred by the Mortgagee shall be a part of the Debt and shall be secured by this mortgage. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. In the event of a sale hereunder, the Mortgagee, or the owner of the Debt and mortgage, or auctioneer, shall execute to the purchaser, for and in the name of the Mortgagor, a deed to the Real Estate.

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Plural or singular words used herein to designate the undersigned shall be construed to refer to the maker or makers of this mortgage, whether one or more natural persons, corporations, associations, partnerships, or other entities. All covenants and agreements herein made by the undersigned shall bind the 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.

IN WITNESS WHEREOF, the undersigned Mortgagor has (have) executed this instrument on the date first written above.

AMERICAN TIRE & AUTO CENTER, INC.
BY: John Calaway
Its: President

ACKNOWLEDGEMENT FOR INDIVIDUAL(S)

STATE OF ALABAMA)

COUNTY)

I, the undersigned authority, in and for said county in said state, hereby certify that _____

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

Given under my hand and official seal this _____ day of _____, 19 ____.

Notary Public

My Commission Expires:

ACKNOWLEDGEMENT FOR PARTNERSHIP

STATE OF ALABAMA

COUNTY)

I, the undersigned authority, a Notary Public, in and for said county in said state, hereby certify that _____

whose name(s) as (general) (limited) _____ partner(s) of

(general (limited) partnership, and whose name(s) is (are) signed to the foregoing instrument, and who is (are) known to me, acknowledged before me on this day that, being informed of the contents of said instrument, (he) (she) (they), as such _____ partner(s), 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 _____, 19 ____.

Notary Public

My Commission Expires:

89 JUN -6 AM 10:49

ACKNOWLEDGEMENT FOR CORPORATION

JUDGE OF PROBATE

STATE OF ALABAMA)

JEFFERSON COUNTY)

1. Deed Tax \$	_____	
2. Mtg. Tax	140.00	
3. Recording Fee	12.50	
4. Indexing Fee	2.00	
TOTAL		134.50

I, the undersigned authority, in and for said county in said state, hereby certify that _____ John Calloway

whose name as President of AMERICAN TIRE & AUTO CENTER, 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 3rd day of June, 1989.


Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF ALABAMA BY LAW
MY COMMISSION EXPIRES: AUG. 27, 1982.
DAVID F. OVSON NOTARY PUBLIC UNDERWRITER

This instrument prepared by:

DAVID F. OVSON, Attorney at Law
3499 Independence Drive, Suite A
Birmingham, Alabama 35209