

4702

State of Alabama

Shelby County

1200

MORTGAGE

This indenture is made and entered into this 12th day of April, 1990 by and between Sherwood J. Stamps, a married man

(hereinafter called "Mortgagor", whether one or more) and National Bank of Commerce of Birmingham, a national banking association (hereinafter called "Mortgagee").

WHEREAS, Sherwood J. Stamps

is (are) justly indebted to the Mortgagee in the amount of Three Hundred Thousand and no/100 dollars (\$ 300,000.00) as evidenced by that certain promissory note dated April 12, 1990 which bears interest as provided therein and which has a final maturity date of October 12, 1990

BOOK 287 PAGE 631

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"):

See Exhibit "A" attached hereto.

The property referenced herein on Exhibit "A" does not constitute the homestead of the Mortgagor.

Together with all the 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.

This mortgage is subordinate to that certain mortgage from _____

to _____
dated _____ and recorded in _____ Volume _____, at page _____ in the Probate Office
of _____ County, Alabama.

The Mortgagor hereby authorizes the holder of a prior mortgage encumbering the Real Estate, if any, to disclose to the Mortgagee the following information: (1) the amount of indebtedness secured by such mortgage; (2) the amount of such indebtedness that is unpaid; (3) whether any amount owed on such indebtedness is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; and (5) any other information regarding such mortgage or the indebtedness secured thereby which the Mortgagee may request from time to time.

If this mortgage is subordinate to a prior mortgage, the Mortgagor expressly agrees that if default should be made in the payment of principal, interest or any other sum payable under the terms and provisions of such prior mortgage, the Mortgagee may, but shall not be obligated to, cure such default, without notice to anyone, by paying whatever amounts may be due under the terms of such prior mortgage so as to put the same in good standing; and any and all payments so made, together with interest thereon at the rate of 8% per annum or the highest rate then permitted by law, whichever shall be less, shall be added to the indebtedness secured by this mortgage. Any such amount paid by Mortgagee, with interest thereon, shall be immediately due and payable; and, if such amount is not paid in full immediately by Mortgagor, then, at the option of the Mortgagee, this mortgage shall be in default and subject to immediate foreclosure in all respects as provided by law and by the provisions hereof.

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) 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 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: National Bank of Commerce of Birmingham, P. O. Box 10686, Birmingham, Alabama 35202, Attention: Loan Department.

Subject to the rights of the holder of the prior mortgage set forth above, if any, 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, and this mortgage may be foreclosed as hereinafter provided; and, regardless of whether the Mortgagee declares 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 8% 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 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:

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;
2. all judgments, 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 judgments 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 Debt 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 excepted.

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

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 party, 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.

BOOK 287 PAGE 633

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 creditors, (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 judgment 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 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); 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 no 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) 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.

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.

X Sherwood J. Stamps
Sherwood J. Stamps

This instrument prepared by:

Name: David W. Farr

Address: National Bank of Commerce of Birmingham
1927 First Avenue North
Birmingham, AL 35203

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

AFFIX NOTARIAL SEAL

Notary Public

My commission expires:

ACKNOWLEDGMENT FOR INDIVIDUAL(S)

State of Alabama

Jefferson County

I, the undersigned authority, in and for said county in said state, hereby certify that
Sherwood J. Stamps, a married man

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 12th day of April 19 90

AFFIX NOTARIAL SEAL

Notary Public

My commission expires:

My Commission Expires May 29, 1991

ACKNOWLEDGMENT FOR CORPORATION

State of Alabama

County

I, the undersigned authority, in and for said county in said state, hereby certify that
whose name as of

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 day of 19

AFFIX NOTARIAL SEAL

Notary Public

RETURN TO: National Bank of Commerce of Birmingham, P.O. Box 10686, Birmingham, Alabama 35202
Attention: Loan Department

287 PAGE 634

BOOK

228

EXHIBIT "A"

287 PAGE 635
The SE 1/4 lying East of Pumpkin Swamp Road, Section 19;
The W 1/2 of the SW 1/4 of Section 20;
The N 1/2 of the NE 1/4; The W 1/2 of the NW 1/4 lying North of
the Central of Georgia Railway; Part of the NE 1/4 of the SW 1/4;
Part of the E 1/2 of the NW 1/4 of Section 29;
Part of the NE 1/4 of Section 30; All being in Township 18 South,
Range 2 East, Shelby County, Alabama, described as follows:
Beginning at the NE corner of Section 29 go South 89 deg. 27 min. 53
sec. West along the North boundary of said Section for 3862.17 feet
to the SE corner of the West 1/2 of the SW 1/4 of Section 20; thence
North 01 deg. 52 min. 08 sec. West along the East boundary of said West
1/2 of the SW 1/4 for 2671.12 feet to the NE corner of said West 1/2
of the SW 1/4; thence South 89 deg. 39 min. 17 sec. West along the
North boundary of said West 1/2 of the SW 1/4 for 1303.61 feet to the
NE corner of the SE 1/4 of Section 19; thence South 89 deg. 50
min. 27 sec. West along the North boundary of said SE 1/4 for
661.29 feet to an existing iron pin; thence continue South 89 deg. 47
min. 49 sec. West along the North boundary of said SE 1/4 for 1102.74
feet to a point on a curve to the right on the East boundary of Shelby
County Highway No. 55, said curve having a Central Angle of 08 deg. 22
min. 51 sec. and a radius of 210.00 feet; thence Westerly along said
curve for 30.90 feet to the center line of Pumpkin Swamp Road; thence
sixteen (16) courses along the center line of said road as follows:
go South 30 deg. 37 min. 51 sec. West for 355.43 feet; thence South 20
deg. 59 min. 00 sec. West for 197.67 feet; thence South 14 deg. 07 min.
00 sec. West for 142.94 feet; thence South 02 deg. 15 min. 20 sec.
West for 186.26 feet; thence South 06 deg. 13 min. 20 sec. West for
348.37 feet; thence South 00 deg. 06 min. 50 sec. West for 160.85
feet; thence South 01 deg. 23 min. 30 sec. West for 233.79 feet; thence
South 12 deg. 22 min. 00 sec. West for 287.39 feet; thence South 17
deg. 10 min. 30 sec. East for 183.46 feet; thence South 04 deg. 32 min.
20 sec. West for 149.21 feet; thence South 02 deg. 02 min. 00 sec.
West for 232.16 feet; thence South 46 deg. 34 min. 00 sec. West for
97.10 feet; thence South 65 deg. 21 min. 52 sec. West for 102.62 feet;
thence South 53 deg. 26 min. 50 sec. West for 83.92 feet; thence South
53 deg. 26 min. 15 sec. West for 170.00 feet; thence South 53 deg. 35
min. 38 sec. West for 11.27 feet to the SW corner of the SE 1/4 of
Section 19; thence South 68 deg. 28 min. 04 sec. East for 300.00 feet
to the center of a branch; thence four (4) courses along said branch
as follows: go South 37 deg. 10 min. 15 sec. West for 85.03 feet;

287

thence South 57 deg. 30 min. 11 sec. West for 34.66 feet; thence South 22 deg. 57 min. 21 sec. West for 22.63 feet; thence South 13 deg. 14 min. 41 sec. West for 63.71 feet; thence South 89 deg. 47 min. 02 sec. West for 174.38 feet to the West boundary of the NE 1/4 of the NE 1/4 of Section 30; thence South 00 deg. 08 min. 00 sec. East along said West boundary for 186.93 feet to a point on a curve on the Northerly boundary of the Central of Georgia Railway; thence Easterly along said railway for 3173.79 feet to the West boundary of the NW 1/4 of Section 29; thence North 00 deg. 24 min. 24 sec. East along said West boundary for 27.76 feet to a point on a curve on the Northerly boundary of the Central of Georgia Railway; thence Easterly along said railway for 564.55 feet to a point; thence South 66 deg. 38 min. 02 sec. East for 365.15 feet to the South boundary of the West 1/2 of the NW 1/4 of Section 29; thence South 89 deg. 38 min. 49 sec. East along said South boundary for 448.36 feet to the NW corner of the NE 1/4 of the SW 1/4 of Section 29; thence South 00 deg. 09 min. 21 sec. West along the West boundary of said NE 1/4 of the SW 1/4 for 250.56 feet to the Northerly boundary of the Central of Georgia Railway; thence South 66 deg. 38 min. 02 sec. East along said Northerly boundary for 1416.80 feet to the East boundary of the NE 1/4 of the SW 1/4 of Section 29; thence North 05 deg. 32 min. 06 sec. West for 2146.70 feet to a point on the South boundary of the NE 1/4 of the NW 1/4 of Section 29; thence North 89 deg. 26 min. 15 sec. East along said South boundary for 203.68 feet to the SW corner of the North 1/2 of the NE 1/4 of Section 29; thence North 89 deg. 26 min. 15 sec. East along the South boundary of said North 1/2 of the NE 1/4 for 2576.21 feet to the SE corner of the North 1/2 of the NE 1/4 of Section 29; thence North 00 deg. 09 min. 11 sec. West along the East boundary of said North 1/2 of the NE 1/4 for 1306.46 feet to the point of beginning; being situated in Shelby County, Alabama.

Mineral and mining rights excepted.

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

90 APR 18 AM 10:37

Roman A. Sullivan, Jr.
JUDGE OF PROBATE

1. Deed Tax	\$	
2. Mtg. Tax	\$	450.00
3. Recording Fee	\$	75.00
4. Indexing Fee	\$	3.00
5. No Tax Fee	\$	
6. Certified Fee	\$	1.00
Total	\$	469.00

2/2