

84

THIS INSTRUMENT PREPARED BY:  
Phelps, Owens, Jenkins, Gibson & Fowler  
P. O. Box 020848  
Tuscaloosa, Alabama 35402-0848

DESCRIPTION:  
Lot 3 of Indian Valley,  
Second Sector

STATE OF ALABAMA )  
COUNTY OF SHELBY )

REAL PROPERTY MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that Joseph E. Lane, III of Shelby County, Alabama (hereinafter sometimes called "Debtor") is justly indebted to Edna F. Lane (hereinafter sometimes called "Mortgagee") in the sum of One Hundred Thousand (\$100,000) Dollars for that amount of money this day loaned by the Mortgagee directly to Debtor on delivery of this instrument, the receipt of which sum is hereby acknowledged and which said indebtedness is evidenced by a promissory note of Debtor of even date herewith which note is due and payable to the order of Mortgagee in accordance with its terms.

NOW, THEREFORE, in consideration of the premises, and in order to secure the payment of principal and interest of the said indebtedness as evidenced by the above described promissory note of Debtor and also any and all liability of Debtor to Mortgagee, whether now existing or whether hereinafter incurred, direct or indirect, absolute or contingent, including any renewal or extension thereof, and any future advances made to Debtor by Mortgagee, or made by Mortgagee on behalf of the Debtor, under the terms of this agreement (all hereinafter called the "Obligation"). And for the further consideration of One and No/100 (\$1.00) Dollar, paid to the undersigned on delivery of this instrument, the receipt of which is hereby acknowledged, the undersigned Joseph E. Lane, III hereby grants, bargains, sells, and conveys unto Mortgagee, her successors and assigns in fee simple, real estate in Shelby County, Alabama, described as follows, to-wit:

Lot 3, according to the Survey of Indian Valley, Second Sector, as recorded in Map Book 5, Page 75, in the Probate Office of Shelby County, Alabama.

Mineral and mining rights excepted.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining. (All hereinafter referred to as "Property").

TO HAVE AND TO HOLD, unto the Mortgagee, her successors and assigns, in fee simple, forever. And the undersigned does for himself, and for his successors and assigns, covenant with Mortgagee that he is seized of an indefeasible estate in fee simple in and to said property; that he has the lawful right to sell and convey the same in fee simple; that the said property is free from all mortgages, liens, and encumbrances, except those herein mentioned; that he is entitled to the immediate possession thereof; and that he will forever warrant and defend the title to the same and the possession thereof unto Mortgagee, his successors and assigns, against the lawful claims and demands of all persons, whomsoever.

But this conveyance is made upon the express condition that if the said Debtor shall fully and promptly pay and discharge when the same respectfully falls due each and every principal and interest installment on the above described promissory note, and all other amounts hereby secured, and also if he shall faithfully and promptly keep and perform all the other promises, covenants, conditions and undertakings herein contained, then this conveyance shall be void; otherwise it shall remain in full force and effect.

In addition to the warranties and covenants contained above, Debtor further warrants, covenants and agrees that:

1. This mortgage shall also secure any renewal or renewals, extension or extensions of the primary debt. It shall also secure any future advances of cash or its equivalent made by Mortgagee to Debtor and also any payments made or expenses incurred by Mortgagee, under this agreement, for or on behalf of Debtor or for the purpose of protecting Mortgagee's interest in

320-359  
Thomas L. Foster

Property. Any such renewal or renewals, extension or extensions, future advance or advances, payment or expense made or incurred, whether made to protect Mortgagee's interest in Property, with or without Debtor's consent; or whether made at the option of Mortgagee at the request of and with the consent of Debtor for any purpose whatsoever; shall become a part of the Obligations secured by this mortgage. Any such renewal or renewals, extension or extensions, advance or advances, payment or expenditure made or incurred, shall have the same priority over other interests in Property as the original Obligation. Debtor will not enter into any agreement which in any way attempts to alter or modify this future advance agreement without the written consent of Mortgagee.

2. Debtor will, at his expense, have and maintain insurance at all times insuring Property against risk of fire (including so-called extended coverage) and all expected risks to which the above described property may be exposed and such other risks as Mortgagee may require, containing a loss payable clause in favor of Mortgagee and containing such terms, for such amount, in such form, for such periods and written by such company as may be satisfactory to Mortgagee. All policies of insurance shall provide for ten (10) days written minimum cancellation notice to Mortgagee. Debtor shall furnish Mortgagee with a certificate or other evidence, satisfactory to Mortgagee, of compliance with this insurance provision. Debtor assigns to Mortgagee all rights to receive proceeds of insurance not exceeding the unpaid balance of the Obligations, directs insurer to pay all proceeds directly to Mortgagee, authorizes Mortgagee to act as attorney for Debtor in obtaining, adjusting, settling, and cancelling such insurance and endorse any draft for the proceeds.

3. Debtor will pay promptly, when due, all taxes and assessments upon Property.

4. Debtor will promptly notify Mortgagee in writing of any change of his address.

5. Debtor will not encumber or waste Property and Debtor will keep the same in good condition and the improvements thereon in good repair.

6. Mortgagee shall have a lien on all funds on deposit with Mortgagee in accordance with either subparagraph 6(a) or subparagraph 6(b), whichever is indicated by an X.

N/A (a) Mortgagee shall have a lien upon all funds on deposit now or which may hereafter be deposited by Debtor with Mortgagee so long as this mortgage remains in effect. However, Debtor may from time to time, withdraw said funds in any normal manner unless Mortgagee acts to prevent such withdrawal. Mortgagee may so act to prevent any and all withdrawals of said funds and apply said funds to the obligations secured herein at any time and for any reason whatsoever.

N/A (b) Mortgagee shall not have a lien upon funds deposited by Debtor with Mortgagee unless and until there is a default under the terms of this mortgage. In the event of a default under the terms of this mortgage, then Mortgagee shall automatically have a lien upon all funds then on deposit by Debtor with Mortgagee and upon all funds which may thereafter be deposited by Debtor with Mortgagee.

7. Debtor shall have the right to possession of Property at all times before default. However, Mortgagee shall have, at all times before or after default, the right to enter and inspect Property and any house, building or other improvements thereon at any reasonable time and as often as he may reasonably desire.

8. Debtor warrants that property does constitute his home.

In the event of Debtor's failure to do so, Mortgagee may, but is not required to: discharge taxes, liens or other encumbrances at any time levied or placed on Property; secure and pay for insurance on Property; pay for the maintenance and preservation of Property; pay any other costs or take any other steps which Mortgagee deems reasonably necessary to protect and preserve her interest in Property. Any such payment made or expense incurred by Mortgagee shall be added to and become a part of the Obligations secured

under this mortgage. The making of any such payment by Mortgagee or the failure to make or the choice not to make such payment, shall not be construed to be a waiver of any other right or agreement herein. The interest upon any such payment made by Mortgagee on behalf of Debtor shall be at the same rate provided in the note which this mortgage secures.

Debtor shall be in default under this agreement upon the happening of any one of the following events or conditions:

(A) Upon the failure or default in the payment of any installment of principal or interest due on the above described indebtedness.

(B) Upon the failure or default in the payment or performance of any obligation, any covenant, warranty, agreement, or other liability contained or referred to in this mortgage or in the note or notes evidencing the same.

(C) If any warranty, representation or statement made or furnished to Mortgagee by or on behalf of Debtor proves to be false in any material respect when made or furnished.

(D) Upon the substantial damage, waste, danger of misuse, sale or encumbrance of or to Property.

(E) Upon the death, dissolution, termination of existence, insolvency, business failure, appointment of receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any procedure under the bankruptcy or insolvency laws by or against, or the filing of any garnishment, or attachment, or other judicial proceedings for collection against the property or funds of debtor or any endorser, surety or guarantor in any note or notes evidencing the Obligations or of any of the undersigned.

(F) If Mortgagee, in good faith, believes that the prospects of the payment of any or all Obligations secured hereby is impaired.

Upon such default, Mortgagee may, at her option declare all Obligations secured hereby immediately due and payable. The undersigned hereby vests Mortgagee with full power and authority, upon the happening of any such default, to take possession of Property and appropriate the rents, issues and profits therefrom to the payment of the Obligations secured by this mortgage or any prior charge against Property or to the expense of foreclosing this mortgage and Mortgagee may proceed to foreclose this mortgage under the power contained herein, or by proceeding in a Court of competent jurisdiction. The undersigned further vests the Mortgagee with full power and authority, upon the happening of any such default, to sell Property at public outcry at the front door of the Courthouse of Shelby County, Alabama, for cash to the highest bidder, after first giving notice by publication once a week for three successive weeks in some newspaper published in the county in which the sale is to be held. Said notice of sale shall give the time, place and terms of said sale, together with a description of the property to be sold. Said sale may be made with or without, or before or after, the taking of possession of Property. Property may be sold en masse, or in lots or parcels as Mortgagee deems best. The undersigned does hereby authorize and empower Mortgagee to bid for and become the purchaser of Property or any portion thereof, whether said sale be made under the power contained in this mortgage, or under Decree of some Court of competent jurisdiction, and does hereby authorize the attorney for Mortgagee or the auctioneer making said sale, to execute a deed to the purchaser at any sale of the premises covered by this mortgage, hereby vesting in the purchaser all right, title and interest of the undersigned in and to all of Property, or any part thereof. Debtor further agrees to pay a reasonable attorney's fee to Mortgagee for the foreclosure of this mortgage whether the same be foreclosed under the power contained herein or in some Court with competent jurisdiction.

The proceeds of said sale shall be applied first to the payment of any prior liens such as taxes, assessments or other prior charges against the property; second, to any reasonable attorney's fee and other legal expenses incurred in collecting or attempting to collect any of the Obligations secured hereby, whether by suit or otherwise, and in protecting Mortgagee's lien and other rights hereunder and in foreclosing this mortgage; third, to the payment of all other expenses of foreclosing this mortgage including but



not limited to, the cost of advertising, the cost of executing and recording deeds to the purchaser, and auctioneer's fees, if any; fourth, any balance remaining to the payment of the unpaid Obligations secured by this mortgage; and fifth, any balance shall be paid to the undersigned or to Debtor.

If any provision of this mortgage shall, for any reason, be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, but this agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

No agreement, representation, or warranty shall be binding on Mortgagee unless expressly contained herein. No waiver by Mortgagee of any default shall operate as a waiver of any other default or to the same default on a future occasion. All rights of Mortgagee hereunder shall inure to the benefit of her successors and assigns; and all obligations of Debtor shall bind his heirs, next of kin, executors, or administrators or his successors or assigns. If there be more than one Debtor, their Obligations shall be joint and several. Neither the execution of this instrument nor anything contained herein shall supersede, invalidate or in any way affect any prior mortgage or other liens heretofore executed by Debtor to Mortgagee, but all rights, remedies and securities heretofore existing in favor of Mortgagee for the security of any and all indebtedness of Debtor or Mortgagee shall and do remain in full force and effect.

The acceptance of a partial payment or of part of the arrears due under this mortgage or under any note secured by this mortgage shall not be deemed to be a waiver of default and, even though accepting such payment or such portion of an amount in arrears, Mortgagee may still, at her option, declare all obligations secured hereby immediately due and payable.

The terms "Debtor" and "Undersigned" are used in this instrument as if singular, but they shall be construed as singular or plural to correspond with the number of persons executing this mortgage as Debtor or Undersigned. The pronouns used in this instrument are in the masculine gender but shall be construed as feminine or neuter as the occasion may require.

By signing below, the undersigned hereby certifies that he received a copy of this instrument and a copy of all instruments executed by his in connection with this transaction.

WITNESS my hand and seal on this the 29<sup>th</sup> day of November, 1990.

CAUTION--IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT.

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

90 DEC -3 PM 2:39

Joseph E. Lane, III  
Joseph E. Lane, III,  
Borrower

320-362

STATE OF ALABAMA )

Judge of Probate

Jefferson COUNTY )

I, the undersigned authority, a Notary Public in and for the State of Alabama at Large, do hereby certify that Joseph E. Lane, III, whose name is signed to the foregoing Real Property Mortgage, and who is known to me, acknowledged before me on this day that, being informed of the contents of the said Real Property Mortgage, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office on this the 29<sup>th</sup> day of November, 1990.

1. Deed Tax	\$	0.00
2. Mtg. Tax	\$	150.00
3. Recording Fee	\$	18.00
4. Indexing Fee	\$	3.00
5. No Tax Fee	\$	0.00
6. Certified Fee	\$	1.00
Total	\$	164.00

[Signature]  
Notary Public in and for the  
State of Alabama at Large  
My Commission Expires: 11/3/91