

State of Alabama
County of Shelby

MORTGAGE

THIS INDENTURE, made on this 1 day of April, 1994, between WILLIAM RAY HENRY, a married person, and HENRY MOTORS, INC., a corporation, both of whose address is Highway 31 South, Alabaster, Alabama (hereinafter referred to as "Mortgagor") and AMSOUTH BANK, N.A., whose address is P.O. Box 11007, Birmingham, Alabama 35288 ("Mortgagee").

W I T N E S S E T H :

WHEREAS, the said Mortgagor, is and will be indebted to Mortgagee by the terms of a Note of even date in the principal sum of \$50,000.00, payable in accordance with the terms of such Note.

NOW THEREFORE, the undersigned Mortgagor in consideration of the premises and to secure the payment of the Obligations due and to become due pursuant to the terms of such Note of even date and any other indebtedness (whether now existing or hereafter created) owed to Mortgagee by Mortgagor and in compliance with all the stipulations herein contained, does hereby grant, bargain, sell, and convey unto AMSOUTH BANK, N.A., their successors, and assigns the Premises situated in Shelby County, Alabama and described in Exhibit "A" attached hereto and incorporated herein by this reference (which together with the property described in the next succeeding paragraphs is herein called the "Premises").

TOGETHER WITH all and singular the rights, members, privileges, appurtenances, tenements, buildings, structures, equipment, and fixtures thereunto belonging or in anywise appertaining; and

TOGETHER WITH any awards hereafter made for any taking of or injury to said Premises through eminent domain or otherwise, including awards or damages for change of grade, and also any return premiums or other payments upon any insurance at any time provided for the benefits of Mortgagee, all of which awards, damages, premiums, and payments are hereby assigned to Mortgagee and may be at any time collected by it.

[THESE PREMISES ARE NOT THE HOMESTEAD OF THE MORTGAGOR OR OF THE MORTGAGOR'S SPOUSE.]

TO HAVE AND TO HOLD the said Premises, and every part thereof, unto Mortgagee, its successors, and assigns, forever. And Mortgagor covenants with Mortgagee that it is lawfully seized of the estate herein mortgaged and has full power and right to sell and convey the same as aforesaid, that the said Premises are free of all encumbrances except as set out herein, that the Mortgagee

hereunder and its successors and assigns shall quietly enjoy and possess the same; and Mortgagor will warrant and forever defend the title to said Premises unto Mortgagee, its successors, and assigns, against lawful claims of all persons whomsoever.

Mortgagor will pay all indebtedness secured hereby whether presently existing or hereafter incurred. The indebtedness secured hereby may be prepaid. In the event of any acceleration of the indebtedness by reason of non-payment, breach of any covenant or agreement, or other default, the Mortgagor covenants to pay, in addition to all other amounts due, interest on and advances pursuant to the Note from maturity until paid at the rate set forth in said Note.

It is our true, clear, and expressed intention that the continuing grant of the Premises by this Mortgage shall secure the payment and performance of all of the indebtedness of Mortgagor and Henry Motors, Inc. to Mortgagee, regardless of whether now existing or which may hereinafter be incurred by future advances; whether such indebtedness be absolute, direct, contingent or otherwise; and whether such indebtedness was contemplated by the parties at the time of the executing of this Mortgage.

For the benefit of Mortgagee, Mortgagor will constantly keep in force fire and extended coverage insurance policies with respect to any and all buildings on said Premises, such insurance to be provided in such a manner and in such companies and for such amounts as may be required by Mortgagee, with loss, if any, payable to said Mortgagee as its interest may appear, and the Mortgagor covenants to pay the premium on such policy or policies when due, to deliver to the Mortgagee upon its request the official receipts for such premium payments, and upon issuance of such policies to promptly deposit them with the Mortgagee as collateral security for the payment of the indebtedness hereby secured. The Mortgagor further covenants that all insurance policies will contain a clause that prohibits them from being cancelled upon less than ten (10) days notice to Mortgagee, and to deliver to the Mortgagee at least ten (10) days before the expiration of all such insurance policies, a renewal of such policy or policies, together with official receipts for the payment of the premium thereon. Mortgagor hereby transfers, assigns, sets over, and delivers to Mortgagee the fire and other insurance policies covering said property and any and all renewals thereof, the premiums on which have been or shall be paid by Mortgagor, and it is further agreed that all such insurance and insurance policies shall be held by Mortgagee as a part of the security for said indebtedness, and shall pass to, and become the property of, the purchaser at any foreclosure sale hereunder, without the necessity of specifically describing said insurance or insurance policies in the foreclosure notice, sale, deed, or other proceedings in consummation of such foreclosure, and if the Mortgagor fails to keep said property insured as above specified, then Mortgagee may, at its option, insure said property for its

insurable value against loss by fire and other hazards, casualties, and contingencies, for its own benefit, and any amount which may be expended for premiums on such insurance policies shall be secured by the lien of this mortgage and bear interest from the date of payment by Mortgagee; it being understood and agreed between the parties hereto that any sum, or sums, of money received for any damage by fire or other casualty to any building, or buildings, herein conveyed may be retained by the then holder of the indebtedness secured by this Mortgage and applied toward payment of such indebtedness, either in whole or in part, or, at the option of the holder of said debt, same may be applied in payment for any repair or replacement of such building, or buildings, without affecting the lien of this Mortgage for the full amount hereby secured. Mortgagor agrees to give Mortgagee notice in writing of any damage to the mortgaged Premises caused by fire or other casualty within ten (10) days after the occurrence of any such damage.

Said Premises and the improvements thereon shall be kept in good condition and no waste committed or permitted thereon, natural wear and tear excepted, and all taxes and assessments or other charges which may be levied upon or accrued against said Premises, as well as all other sums which may be or become liens or charges against same, shall be paid and discharged by Mortgagor promptly and when so levied or assessed, and shall not be permitted to become delinquent or to take priority over the lien of this Mortgage.

No building or other improvement on the Premises shall be structurally altered, removed or demolished, without the Mortgagee's prior written consent, nor shall any fixture or chattel covered by the Mortgage and adapted to the proper use and enjoyment of the premises be removed at any time without like consent. In the event of any breach of this covenant the Mortgagee may, in addition to any other rights or remedies, at any time thereafter, declare the whole of the indebtedness secured by this Mortgage immediately due and payable.

That 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 Mortgagor and shall not be permitted to take priority over the lien of this Mortgage, provided that Mortgagor, upon first furnishing to Mortgagee reasonable security for the payment of all liability, costs, and expenses of the litigation, may in good faith contest, at Mortgagor's expense, the validity of any such lien or liens. In those instances where Mortgagee's title policy protects it against such lien or liens such title policy shall be deemed to be sufficient security. Determination of whether said title policy protects Mortgagee shall be made solely by Mortgagee and shall be binding upon Mortgagor.

Mortgagor shall comply with all laws, governmental standards, and regulations applicable to Mortgagor on the Premises with regards to occupational safety, hazardous waste and materials, and environmental matters. Mortgagor shall promptly notify the Mortgagee of its receipt of any nature of a violation by Mortgagor or the Premises of any such law, standard, or regulation. Mortgagor represent and warrant to Mortgagee that there is not now, or will there be in the future, any asbestos or other harmful or regulated substances in the Premises or on the Premises or pending claims relating thereto. Mortgagor shall indemnify and hold Mortgagee harmless for any and all loss incurred by Mortgagee as a result of Mortgagor's breach of this warranty and representation.

If Mortgagor shall fail to insure said property as hereinabove provided, or to pay all or any part of the taxes or assessments levied, accrued, or assessed upon or against interest of Mortgagee or Mortgagor, or fails to pay immediately and discharge any and all liens, debts, and/or charges which might become liens superior to the lien of this Mortgage; Mortgagee may, at its option, insure said property and/or pay said taxes, assessments, debts, liens, and/or charges, and any money which Mortgagee shall have so paid or become obligated to pay shall constitute a debt to Mortgagee additional to the debt hereby specifically secured, shall be secured by this Mortgage, shall bear the highest legal interest from date paid or incurred and, at the option of the Mortgagee, shall be immediately due and payable.

No failure of Mortgagee to exercise any option herein given to declare the maturity of the debt hereby secured shall be taken or construed as a waiver of its right to exercise such option or to declare such on the part of Mortgagor; and the procurement of insurance or the payment of taxes or other liens, debts, or charges by Mortgagee shall not be taken or construed as a waiver of its right to declare the maturity of the indebtedness hereby secured by reason of the failure of Mortgagor to procure such insurance or to pay such taxes, debts, liens, or charges.

If Mortgagee shall be made a party to any suit involving the titles to the property hereby conveyed and employs an attorney to represent it therein, or if Mortgagee employs an attorney to assist in settling or removing any cloud on the title to the property hereby conveyed that purports to be superior to the lien of this Mortgage in any respect, Mortgagor will pay to Mortgagee, when the same becomes due, such attorney's fee as may be reasonable for such services, and if such fee is paid or incurred by Mortgagee the same shall be secured by the lien of this Mortgage in addition to the indebtedness specially secured hereby, and shall bear interest from the date it is paid or incurred and shall be at once due and payable.

All expenses incurred by Mortgagee, including attorney's fees, in compromising, adjusting, or defending against lien claims or

encumbrances sought to be fixed upon the property hereby conveyed, whether such claims or encumbrances be valid or not, shall become a part of the debt hereby secured.

Mortgagor agrees to pay a reasonable attorney's fee to Mortgagee should the Mortgagee employ an attorney to collect any indebtedness secured by this Mortgage.

Notwithstanding that the assignment of awards hereinabove referred to shall be deemed to be self-executing, Mortgagor, after the allowance of a condemnation claim or award, and the ascertainment of the amount due thereon, and the issuing of a warrant by the condemnor for the payment thereof, shall execute, at Mortgagee's request, and forthwith deliver to Mortgagee, a valid assignment in recordable form, assigning all of such condemnation claims, awards or damages to Mortgagee, but not in excess of an amount sufficient to pay, satisfy, and discharge the principal sum of this Mortgage and any advances made by Mortgagee as herein provided then remaining unpaid, with interest thereon at the rate specified in the Note which this Mortgage secures, to the date of payment, whether such remaining principal sum is then due or not by the terms of said Note or of this Mortgage.

If Mortgagor shall make default in the payment of any of the indebtedness hereby secured, or in the performances of any of the terms or conditions hereof, Mortgagee may proceed to collect the rent, income, and profits from the Premises, either with or without the appointment of a receiver; any rents, income, and profits collected by Mortgagee prior to foreclosure of this Mortgage, less the cost of collecting the same, including any Real Estate commission or attorneys' fee incurred, shall be credited first to advances with interest thereon, then to interest due on the principal indebtedness, and the remainder, if any, to the principal debt hereby secured.

It is further agreed that if Mortgagor shall fail to pay, or cause to be paid, the whole or any portion of the principal sum, or any installment of interest thereon, or any other sum the payment of which is hereby secured, as they or any of them mature, either by lapse of time or otherwise, in accordance with the agreements and covenants herein contained, or should default be made 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, said property, or should default be made in any of the covenants, conditions, and agreements herein contained, then and in that event, the whole of said principal sum, with interest thereon, and all other sums secured hereby, shall, at the option of the then holder of said indebtedness, be and become immediately due and payable and the holder of the debt hereby secured shall have the right to enter upon and take possession of said property and after, or without, taking such possession of the same, sell the mortgaged property at

public outcry, in front of the courthouse door of the county wherein said property is located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the time, place, and terms of such sale by publication once a week for three (3) successive weeks in some newspaper published in said county, and, upon the payment of the purchase money, the Mortgagee or any person conducting said sale for it is authorized and empowered to execute to the purchaser at said sale a deed to the property so purchased in the name and on behalf of Mortgagor, and the certificate of the holder of the mortgage indebtedness, appointing said auctioneer to make such sale, shall be prima facie evidence of his authority in the premises, or the equity of redemption from this Mortgage may be foreclosed by suit in any court of competent jurisdiction as now provided by law in the case of past due mortgages. The Mortgagee, or the then holder of the indebtedness hereby secured, may bid at any such sale and become the purchaser of said property if the highest bidder therefor. The proceeds of any such sale shall be applied (a) to the expenses incurred in making the sale and in all prior efforts to effect collection of the indebtedness secured hereby, including a reasonable attorney's fee, or reasonable attorneys' fees, for such services as may be, or have been necessary in any one or more of the foreclosure of this Mortgage, of the collection of said indebtedness, and of the pursuit of any efforts theretofore directed to that end, including, but without limitation to, the defense of any proceedings instituted by the Mortgagor or anyone liable for said indebtedness or interest in the mortgaged premises to prevent or delay, by any means, the exercise of said power of sale on the foreclosure of this Mortgage; (b) to the payment of whatever sum or sums Mortgagee may have paid out or become liable to pay, in carrying out the provisions of this Mortgage, together with interest thereon; (c) to the payment and satisfaction of said principal indebtedness and interest thereon to the day of sale; and (d) the balance, if any, shall be paid over to Mortgagor, or Mortgagor's successors or assigns. In any event, the purchaser under any foreclosure sale, as provided herein, shall be under no obligation to see to the proper application of the purchase money.

Should Mortgagor become insolvent or bankrupt; or should a receiver of Mortgagor's property be appointed; or should Mortgagor intentionally damage or attempt to remove any improvement upon said mortgaged real estate; or should it be discovered after the execution and delivery of this instrument that there is a defect in the title to or a lien or encumbrance of any nature on said property prior to the lien hereof; or in case of a error or defect to any agreement between Mortgagor and Mortgagee for which this Mortgage is security or this instrument or in the execution or the acknowledgement thereof; or if a homestead claim be set up to said property or any part thereof adverse to this Mortgage and if the said Mortgagor shall fail for thirty (30) days after demand by the Mortgagee, or other holder or holders of said indebtedness, to correct such defects in the title or to remove any such lien or

encumbrance or homestead claim, or to correct any error in said agreements or this instrument or its execution; then, upon any such default, failure, or contingency, the Mortgagee, or other holder or holders of said indebtedness, or any part thereof, shall have the option or right, without notice or demand, to declare all of said indebtedness then remaining unpaid immediately due and payable, and may immediately or at any time thereafter foreclose this Mortgage by the power of sale herein contained or by suit, as such Mortgagee, or other holder or holders of said indebtedness, may elect.

It is expressly agreed that any indebtedness at any time secured hereby may be extended, rearranged or renewed, and that any part of the security herein described may be waived or released without in anywise altering, varying, or diminishing the force, effect, or lien of this instrument; and this instrument shall continue as a first lien on all of said lands and premises and other property and rights covered hereby and not expressly released until all sums with interest and charges hereby secured are fully paid; and 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; and no security subsequently taken by Mortgagee or other holder or holders of said indebtedness shall in any manner impair or affect the security given by this instrument; and all security for the payment of said indebtedness or any part thereof shall be taken, considered and held as cumulative.

In the event of default, the Mortgagor agree that the Mortgagee shall be entitled without the necessity of a hearing or notice to Mortgagor to the appointment of a receiver to take care of the Premises, to collect the rents, issues, and profits, and to keep the Premises in good repair, and to apply the rents, issues and profits to the payment of the debts secured hereby.

In the event of any change in the present ownership of all or any part of the mortgaged Premises or any interest therein, either by affirmative action, by operation of law or otherwise, or in the event any further encumbrance of the mortgaged Premises is created without Mortgagee's prior approval, Mortgagee may, at its option, declare the indebtedness due and payable in full.

If the indebtedness secured hereby, or any other debt owned by Mortgagor to Mortgagee, is now or hereafter further secured by security interest or mortgages, pledges, contacts of guaranty, assignments of leases or other securities, the Mortgagee may, at its option, exhaust any one or more of said securities and the security hereunder, either concurrently or independently, and in such order as the Mortgagee may determine.

Provided always that if the indebtedness secured by this Mortgage is paid, and Mortgagee, its successors, and assigns is

reimbursed for any amounts it may have expended pursuant to the authorization of this Mortgage, including without limitation, sums spent in payment of taxes, assessments, insurance, or other liens and interest thereon, and shall do and perform all other acts and things herein agreed to be done, this conveyance shall be null and void; otherwise it shall remain in full force and effect.

Wherever and whenever in this Mortgage 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, addressed as follows:

To Mortgagor: Highway 31 South
Alabaster, Alabama

To Mortgagee: P.O. Box 11007
Birmingham, Alabama 35288
Attn: Rick Lessley

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 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 Mortgagors or Mortgagee shall always be effective no matter how given or received.

Singular or plural words used herein to designate the Mortgagor shall be construed to refer to the maker or makers of this Mortgage, whether one or more persons or a corporation, and all covenants and agreements herein contained shall bind the successors and assigns of the Mortgagor, and every option, right, and privilege herein reserved or secured to Mortgagee shall inure to the benefit of its successors and assigns.

The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid. All rights or remedies of Mortgagee hereunder are cumulative and not alternative, and are in addition to those provided by law.

IN WITNESS WHEREOF, the party constituting Mortgagor, has hereto set his hand and seal on this the 1 day of April, 1994.

William Ray Henry L.S.
William Ray Henry (Individually)

HENRY MOTORS, INC.

BY: William Ray Henry
(Its President)

[CORPORATE SEAL]

ATTEST: William Ray Henry
(Its Secretary)

[ACKNOWLEDGMENTS ON NEXT PAGE]

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that WILLIAM RAY HENRY, whose name 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 this instrument, he executed the same voluntarily on the day the same bears date.

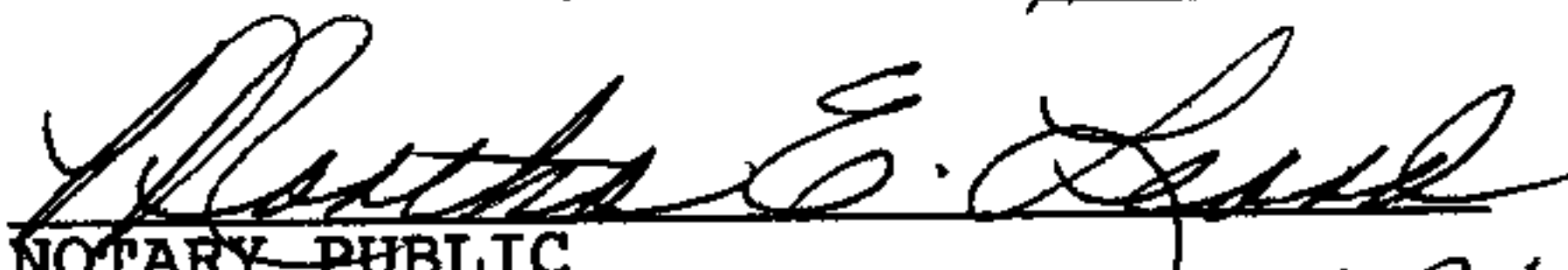
Given under my hand and official seal, this the 1st day of April, 1994.


NOTARY PUBLIC
My Commission Expires: 9-15-96

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that WILLIAM RAY HENRY, whose name as President of HENRY MOTORS, 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, as such officer, and with full authority, executed the same voluntarily, as an act of said corporation, acting in his capacity as aforesaid.

Given under my hand and official seal, this the 1st day of April, 1994.


NOTARY PUBLIC
My Commission Expires: 9-15-96

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

✓ Karen F. Bean
ENGEL, HAIRSTON & JOHANSON, P.C.
109 North 20th Street, Fourth Floor
P.O. Box 370027
Birmingham, Alabama 35237
(205)328-4600

EXHIBIT "A"

TO

MORTGAGE
LIEN AFFIDAVIT
UCC-1 FINANCING STATEMENT
ASSIGNMENT OF LEASE AND RENTS
HAZARDOUS SUBSTANCE INDEMNIFICATION AND WARRANTY AGREEMENT

BORROWER: Henry Motors, Inc.

LOANED TO: AmSouth Bank, N.A.

Part of the NE 1/4 of the NE 1/4 of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Beginning at the Southwest corner of Lot 13, Block 2, Cedar Grove Estates as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 3 page 53 running in an Easterly direction in the South line of said Lot 13, for a distance of 50.77 feet to the existing iron pin and being a corner of that certain property as described in Deed Book 347 page 556; thence turn an angle to the right of 82 deg. 16 min. and running in a Southerly direction for a distance of 170.62 feet to an existing spike being the Southwest corner of that property as described in a foremention Book 347 page 556; thence turn an angle to the right of 97 deg. 48 min. 40 sec. and running in a Westerly direction along the North right of way line of Industrial Road for a distance of 50.40 feet to an existing iron pin being on the East right of way line of L & N Railroad Tracts; thence turn an angle to the right of 82 deg. 03 min. 46 sec. and running in a Northerly direction along said East right of way line of said railroad for a distance of 170.60 feet, more or less to an existing iron pin being the point of beginning; being situated in Shelby County, Alabama.

Inst # 1994-14471

05/04/1994-14471
09:37 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
D11 MCD 108.50