Inst # 1995-19026

M O R T G A G E

07/19/1995-19026
12:22 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
008 MCD 363.50

STATE OF ALABAMA)
SHELBY COUNTY)

Inst # 1995-19026

THIS INDENTURE, made and entered into as of May 24, 1995, by and between THE ESTATE OF GEOFFREY M. WILDER, deceased, (hereinafter referred to as the "Mortgagor"), and JO E. ALEXANDER, as CONSERVATOR OF ANNABELLE EVELYN WILDER ALEXANDER, a minor (hereinafter referred to as the "Mortgagee").

W I T N E S S E T H:

WHEREAS, Mortgagor is obligated and indebted to Mortgagee, as evidenced by a Settlement Agreement dated May 24, 1995, in the principal amount of TWO HUNDRED TWENTY-FIVE THOUSAND AND NO/100 ($ 225,000.00) DOLLARS (hereinafter referred to as the "Agreement"), with principal and interest payable as stipulated and provided in Paragraph 1 of the Agreement; and

WHEREAS, Mortgagor desires to secure the prompt payment of the obligation to pay principal and interest set forth in Paragraph 1 of the Agreement;

NOW, THEREFORE, Mortgagor, in consideration of the premises, and in order to secure the prompt payment of the obligation set forth in Paragraph 1 of the Agreement (hereinafter referred to as the "Secured Obligation"), and all interest payable on said obligation, does hereby grant, bargain, sell and convey to Mortgagee, its successors and assigns, the real estate lying and being in Shelby County, Alabama, being more particularly described on Exhibit "A" attached hereto and made a part hereof, together with any improvements thereon;

TO HAVE AND TO HOLD the said Mortgaged Property, and every part thereof, unto Mortgagee, its successors and assigns forever.

PROVIDED THAT, if all of the Secured Obligation is paid as and when due, is forfeited pursuant to Paragraph 4 of the Agreement, or is otherwise subject to set off, and if Mortgagor keeps and performs all of the covenants, provisions, and agreements of this Mortgage, then this Mortgage will be void and Mortgagee shall release or satisfy this Mortgage promptly after written request by Mortgagor.

FOR THE PURPOSE of further securing the payment of the Secured Obligation, Mortgagor warrants, covenants and agrees with Mortgagee as follows:

(1) <u>Payment of Indebtedness</u>. Mortgagor will promptly pay all of the Secured Obligation whether presently existing or hereafter incurred.

(2) <u>Taxes</u>. Mortgagor will pay all real estate taxes or other special assessments or charges due on the Mortgaged Property covered hereby as and when due.

(3) <u>Care of Property</u>. The Mortgagor shall keep the Mortgaged Property and any improvements thereon in good condition and shall not commit or permit waste thereon, reasonable wear and tear excepted.

(4) <u>Releases</u>. Mortgagee shall promptly release from the lien of this Mortgage parcels of the Mortgaged Property upon payment by Mortgagor to Mortgagee of the sums set forth on Exhibit "B" attached hereto and made a part hereof (each a "Release Fee"). Upon payment of each Release Fee, Mortgagee shall execute a partial satisfaction prepared by Mortgagor's

counsel which partial satisfaction shall be recorded in the Probate Office in the county in which the property being released is located.

(5) Substitution of Collateral. Mortgagor, after written notice to Mortgagee, may substitute collateral for all or a part of the Mortgaged Property covered by this Mortgage. Such substitute collateral may include other real property, certificates of deposit, other debt instruments or marketable securities (collectively, the "Substitute Collateral") all of comparable value to the Release Fee of that portion of the Mortgaged Property for which the Substitute Collateral will be substituted. Mortgagor and Mortgagee shall execute amendments to this Mortgage or other security agreements necessary to evidence Mortgagee's security interest in the Substitute Collateral. Mortgagee shall promptly release from the lien of this Mortgage the portion of the Mortgaged Property for which the Substitute Collateral is being substituted. Mortgagor's counsel will prepare any amendments, security agreements and releases or satisfactions necessary to effectuate a substitution of collateral pursuant to this Paragraph 5. In the event Substitute Collateral is pledged to secure the Secured Obligation, all references in this Mortgage to "Mortgaged Property" shall be deemed to include the Substitute Collateral.

(6) Compliance. Mortgagor shall comply with any and all legal requirements of any department of the city or county wherein the Mortgaged Property is located.

(7) Condemnation. After the allowance of a condemnation claim or award for all or a portion of the Mortgaged Property, and the ascertainment of the amount due thereon, and the issuing of a warrant by the condemnor for the payment thereof, Mortgagor, at its option, may either (a) pledge Substitute Collateral to Mortgagee pursuant to Paragraph 5 of this Mortgage and retain all of said condemnation claims, awards or damages, or (b) execute, 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 Release Fee of the portion of the Mortgaged Property condemned.

(8) Default; Remedies. It is further agreed that: (a) if Mortgagor shall fail to pay, or cause to be paid, when due, the whole or any portion of any interest thereon under the Agreement, 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 (b) should default be made in the payment of any mechanic's lien, materialman's lien, taxes or assessment on, or which may hereafter be, levied against, or which may become a lien on, said Mortgaged Property; or (c) should default be made in any of the other covenants, conditions and agreements set forth herein or in the Agreement; then, after written notice from Mortgagee to Mortgagor of such default, and the passage of a thirty (30) day cure period, the whole of said Secured Obligation 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 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 to Mortgagor and 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 Mortgaged 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 its authority in the Mortgaged Property, 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 Mortgaged 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 foreclosures 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 Property, 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 Secured Obligation and interest thereon to the day of sale; and (d) the balance, if any, shall be paid over to Mortgagor, or Mortgagor's heirs, 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.

(9) Transfer of Mortgaged Property. Notwithstanding any other provision of this Mortgage the Agreement, the Secured Indebtedness shall become immediately due and payable, at the option of Mortgagee, upon the conveyance of the Mortgaged Property or any part or interest therein; provided, however, that this Paragraph 9 shall not apply to any portion of the Mortgaged Property which is released pursuant to Paragraph 4 of this Mortgage or for which Substitute Collateral is pledged to Mortgagee pursuant to Paragraph 5 of this Mortgage.

(10) Notice. 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 deemed to have been given or served when deposited in the United States Mail, by registered or certified mail, return receipt requested, addressed as follows:

To Mortgagee: Jo E. Alexander, as Conservator of Annabelle Evelyn Wilder Alexander
c/o John M. Wood
810 Park Place Tower
2001 Park Place North
Birmingham, Alabama 35203

To Mortgagor: Estate of Geoffrey M. Wilder
c/o John W. Gant, Jr.
417 20th Street North
Suite 1700
Birmingham, Alabama 35203

or to such other address as either party may have given to the other by notice as hereinabove provided.

(11) Terms. 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 an entity.

(12) Successors and Assigns. 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 Mortgagee's successors and assigns.

(13) Enforceability. 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.

(14) Remedies Cumulative. All rights or remedies of Mortgagee hereunder are cumulative and not alternative, and are in addition to those provided by law.

(15) Governing Law. The validity, interpretation and effect of this Mortgage shall be governed by and construed under the laws of the State of Alabama.

(16) Severability. In the event that any provision of this Mortgage shall violate any applicable statute, ordinance or rule of law in any jurisdiction in which it is used, or is otherwise unenforceable, that provision shall be ineffective to the extent of the violation without invalidating any other provision hereof.

(17) Headings. The headings used in this Mortgage are for the convenience only and are not a part of this Mortgage.

(18) Counterparts. This Mortgage may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same original.

IN WITNESS WHEREOF, the Mortgagor has caused this instrument to be executed under seal on the day and year first above written.

MORTGAGOR:

ESTATE OF GEOFFREY M. WILDER

By: Susan P. Wilder
Susan P. Wilder
Its Executor

By: James H. Livings
James H. Livings
Its Executor

This Instrument Prepared By:
Beth O'Neill Roy
Lange, Simpson, Robinson & Somerville
1700 First Alabama Bank Building
Birmingham, Alabama 35203

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Susan P. Wilder, whose name as Executor of the Estate of Geoffrey M. Wilder, deceased, is signed to the foregoing Mortgage, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, in her capacity as Executor as aforesaid, and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 7th day of July, 1995.

NOTARY PUBLIC - State of Kansas
PATRICIA J. TAYLOR
My Appt. Exp. 11/4/96

Patricia J. Taylor
Notary Public
My Commission Expires: 11/4/96

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that James H. Livings, whose name as Executor of the Estate of Geoffrey M. Wilder, deceased, is signed to the foregoing Mortgage, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as Executor as aforesaid, and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 5th day of July, 1995.

Evelyn Hill
Notary Public
My Commission Expires: 9/22/96

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I

A parcel situated in the Northwest 1/4 of Section 21 and the Northeast 1/4 of Section 20 more particularly described as follows:

Commence at the Northeast corner of Section 20, Township 22 South, Range 3 West. Being the Point of Beginning. From said point run West along the North line of said section for a distance of 420.78' to a 1/2" Rebar pin found; thence left 0 deg. 03 min. 11 sec. a distance of 417.21' to a 1/2" crimp iron pin on the East Bank of King Creek; thence turn left 56 deg. 05 min. 00 sec. and run along the East Bank of King Creek a distance of 271.87' more or less to a fence line; thence turn left 106 deg. 05 min. 52 sec. and run along fence line a distance of 1432.39' to a 1 1/2" open pipe; thence turn left 112 deg, 32 min. 22 sec. a distance of 80.00' to a point; thence turn right 113 deg. 45 min. 00 sec. a distance of 539.74' to an iron pin found; thence turn left 19 deg. 04 min. 45 sec. a distance of 60.42' to a 1 1/2" open pipe; thence turn left 57 deg. 59 min. 52 sec. more or less a distance of 760.00' more or less to a point; thence turn right 57 deg. 26 min. 23 sec. more or less a distance of 800.00' more or less to a point on the West Right of Way of Shelby County Highway #15; thence turn left 119 deg. 52 min. 08 sec. more or less and run Northwest along said Right of Way a distance of 120.00' more or less to a point on the North line of Section 21, Township 22 South, Range 3 West; thence turn left 59 deg. 26 min. 27 sec. more or less down an old fence line a distance of 767.58' more or less to a 1 1/2" open pipe; thence continue along last said course a distance of 1311.79' to the Point of Beginning.

Said Parcel contains 28.277 Acres more or less.

PARCEL II (1141 Oak Street)

A part of Lot 5, Block "I", Lyman's Addition to Montevallo, as recorded in Map Book 3, Page 27, in the Probate Office of Shelby County, Alabama, more particularly described as the Northeasterly 50.0 feet of Lot 5, Block "I", Lyman's Addition to Montevallo, as recorded in Map Book 3, Page 27, in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

PARCEL III (535 Middle)

Lots 1 and 2, Block 47, according to Reynolds Addition to Montevallo, as recorded in Map Book 3, page 37, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

The property herein conveyed is not the homestead of Grantor, nor her spouse, neither is it contiguous to the homestead of Grantor or her spouse.

PARCEL IV (340 and 350 Vine)

Lots 1, 2, 3 and 4, Block 1, according to Latham's Addition to Montevallo, as recorded in Map Book 3 page 25 in the Probate Office of Shelby County, Alabama. Said lots being more particularly described as follows: Commence at a point on the Southeasterly line of East Boundary Street where the same intersects the Northeasterly line of Vine Street and run thence in a Southeasterly direction 100 feet along Vine Street; thence run in a Northerly direction and parallel with East Boundary Street 145 feet to the Southwesterly line of a 10 foot alley; thence in a Northwesterly direction along said 10 foot alley a distance of 100 feet to the Southeasterly line of East Boundary Street; thence run in a Southerly direction along said East Boundary Street 145 feet to the point of beginning; being situated in Shelby County, Alabama.

EXHIBIT "B"

RELEASE FEES

PARCEL	RELEASE FEE
PARCEL I	$ 66,900.00
PARCEL II	$ 37,289.00
PARCEL III	$ 48,000.00
PARCEL IV	$ 44,000.00