

# MORTGAGE

Inst # 1996-05930

STATE OF ALABAMA §  
SHELBY COUNTY §

02/26/1996-05930  
09:31 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 SNA 68.50

KNOW ALL MEN BY THESE PRESENTS THAT

WHEREAS, the undersigned, **SAMUEL WARD NIX** and wife, **BETTE WHITBURN NIX**, [whose address is 690 Salem Road, Montevallo, Alabama 35115, and whose telephone number is (205) 665-1359], of the City of Montevallo, County of Shelby and State of Alabama, party of the first part (hereinafter called the "Mortgagor"), have become justly indebted unto **JAMES LEON NIX** and wife, **BETTY JOYCE MERCHANT NIX**, [whose address is 1775 Ashville Road, Montevallo, Alabama 35115, and whose telephone number is (205) 665-7649], party of the second part (hereinafter called the "Mortgagee"), in the full sum of Thirty-Five Thousand Dollars (\$35,000.00), money lent and advanced in connection with the construction of a house on the following-described property, with interest at the rate of seven and one-half percent (7.5%) per annum (compounded weekly) until paid, for which amount the Mortgagor has signed and delivered unto the said Mortgagee a certain Note bearing even date with these presents, the said principal and interest to be payable to Mortgagee at 1775 Ashville Road, Montevallo, Alabama 35115, or at such other place as the holder of said Note may designate in writing, in 201 weekly installments of Two Hundred Dollars (\$200.00), commencing on the first day of March, 1996, and on each Friday thereafter until the principal and interest are fully paid, except that the final payment of principal and interest (in the amount of \$274.30), if not sooner paid, shall be due and payable on December 31, 1999, and

WHEREAS, the said Mortgagor is desirous of securing the prompt payment of said Note and the installments of principal, interest and weekly payments hereinafter provided for, and any additional indebtedness accruing to the Mortgagee on account of any future payments, advances, or expenditures made by the Mortgagee as hereinafter provided.

NOW, THEREFORE, in consideration of the premises and the sum of Thirty-Five Thousand Dollars (\$35,000.00) to the undersigned Mortgagor in hand paid by the Mortgagee, the receipt whereof is hereby acknowledged, and for the purpose of securing the prompt payment of said indebtedness as it becomes due, the said **SAMUEL WARD NIX** and wife, **BETTE WHITBURN NIX**, Mortgagor, do hereby grant, bargain, sell, and convey unto **JAMES LEON NIX** and wife, **BETTY JOYCE MERCHANT NIX**, (for and during their joint lives and upon the death of either of them, then to the survivor of them in fee simple), Mortgagee, the following-described real property situated in Shelby County, Alabama, to wit:

A parcel of land situated in the Northwest Quarter of the Southeast Quarter (NW ¼ of SE ¼) of Section 16 of Township 22 South, Range 3 West in Shelby County, Alabama, located within the City of Montevallo, being more particularly described as follows:

Commence as the Northwest corner of the Northwest Quarter of the Southeast Quarter (NW ¼ of SE ¼) of Section 16 of Township 22 South, Range 3 West in Shelby County, Alabama, and run North 89° 52' 39" East for a distance of 293.03 feet to an iron pin for the POINT OF BEGINNING; thence continue North 89° 52' 39" East for a distance of 235.00 feet to an iron pin; thence run South 1° 42' 18" East for a distance of 329.07 feet to an iron pin; thence run South 89° 53' 52" West for a distance of 235.00 feet to an iron pin; thence run North 1° 42' 18" West for a distance of 328.99 feet to the Point of Beginning. Said parcel contains 1.77 acres, more or less.

ALSO, a non-exclusive easement and right-of-way for ingress, egress and utilities over and across a portion of the Southeast Quarter of the Northwest

Quarter (SE $\frac{1}{4}$  of NW $\frac{1}{4}$ ) and the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  of NE $\frac{1}{4}$ ) of Section 16 of Township 22 South, Range 3 West in Shelby County, Alabama, more particularly described as follows:

A strip of land 40 feet in width lying immediately North of and parallel to a line described as beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$  of NW $\frac{1}{4}$ ) of Section 16 of Township 22 South, Range 3 West in Shelby County, Alabama, and run North 89° 52' 39" East for a distance of 1368.97 feet to the Southeast corner of said Quarter-Quarter Section; thence continue on said course for a distance of 428.03 feet to the Southeast boundary of said 40 foot wide easement.

Subject to a 75 foot wide power line right-of-way previously conveyed to Alabama Power Company, and all other easements, right-of-way and restrictions of record, if any, and all zoning ordinances.

[The above-described property is commonly known as 690 Salem Road, Montevallo, Alabama 35115]

together with the hereditaments and appurtenances thereunto belonging, and also together with all equipment and fixtures including, but not limited to equipment and fixtures for heating and lighting, now or hereafter installed therein by the Mortgagor.

TO HAVE AND TO HOLD the same with all the rights, privileges, and appurtenances thereunto belonging or in anywise appertaining unto the said Mortgagee and assigns of the Mortgagee forever. The Mortgagor hereby covenants that they are seized of said property in fee simple; that they have a good right to sell and convey the same; that the property is free of all encumbrances and that the Mortgagor, and Mortgagor's heirs, executors, administrators, next-of-kin, and assigns will forever defend the same unto the Mortgagee and assigns against the claims of all persons whomsoever.

This mortgage is made, however, subject to the following covenants, conditions, and agreements, to-wit:

1. That the Mortgagor will promptly pay the principal of and interest on the indebtedness evidenced by the said Note, at the times and in the manner therein provided. However, the privilege is reserved by Mortgagor to pay the debt in whole, or in an amount equal to one or more weekly payments on the principal that are next due on the Note.

2. So long as any of the indebtedness secured hereby shall remain unpaid, in whole or in part, the Mortgagor agrees to keep said premises and improvements thereon in good condition, and to pay all assessments that may be levied or accrue upon said property, and all other charges that may become liens upon said premises, and not to permit any lien, which might take precedence over the lien of this mortgage, to accrue and remain on said premises, or any part thereof, or on the improvements thereon.

3. The Mortgagor agrees to pay all taxes and assessments that may be assessed upon said property and all taxes except income taxes that may be assessed upon the Mortgagee's interest thereon or upon this mortgage or the monies secured hereby. Upon any violation of this undertaking, the debt hereby secured shall at the Mortgagee's option, become immediately due and payable.

4. That the Mortgagor will keep the improvements now existing or hereafter erected on the mortgaged property, insured against loss by fire and other hazards, casualties and contingencies in such amounts and for such periods as may be required by the Mortgagee, and the Mortgagor will pay promptly, when due, any premiums on such insurance provision for payment of which has not been made hereinbefore. In event of loss, each insurance company concerned is hereby authorized and directed to make payment for such loss to the Mortgagor and the Mortgagee jointly. In event of foreclosure of this mortgage or other transfer of title to the mortgaged property in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee.

5. If the Mortgagor fails 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 said property or the indebtedness secured hereby, or any interest of the Mortgagee in either, 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, the Mortgagee may at its option, insure said property and/or pay said taxes, assessments, debts, liens, and/or charges, and any money which the Mortgagee shall have so paid or become obligated to pay shall constitute a debt to the Mortgagee additional to the debt hereby specifically secured, shall be secured by this mortgage, shall bear legal interest from date paid or incurred, and at the option of the Mortgagee shall be immediately due and payable.

6. No failure of the 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 maturity by reason of any past or present default on the part of the Mortgagor; and the procurement of insurance or the payment of taxes or other liens, debts, or charges by the 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 the Mortgagor to procure such insurance or to pay such taxes, debts, liens, or charges.

7. As long as any of the indebtedness hereby secured shall remain unpaid the Mortgagor will neither commit nor permit waste on the premises hereby conveyed; and upon the commission of any waste thereon the Mortgagee may, at its option, declare the entire indebtedness hereby secured to be at once due and payable. Nor will the Mortgagor remove any of the fixtures on the premises hereby conveyed so long as any of the indebtedness hereby secured shall remain unpaid.

8. If the Mortgagor shall make default in the payment of any of the indebtedness hereby secured, or in the performance of any of the terms or conditions hereby, all the rents, income, and profits from the premises are hereby transferred, assigned, set over, and conveyed to the Mortgagee, and the Mortgagee may proceed to collect the rent, income, and profits from the premises upon such default, either with or without the appointment of a receiver; but the Mortgagee shall not hereby become bound by the terms of any lease then existing on the parties by electing to collect the rents thereunder, but may at any time terminate the same. Any rents, income, and profits collected by the Mortgagee prior to foreclosure of this indebtedness, less the cost of collecting the same, including any real estate commission or attorney's fee incurred, shall be credited first, on the advances with interest thereon, then upon the interest, and the remainder, if any, upon the principal debt hereby secured.

9. If the premises, or any part thereof, be condemned upon any power of eminent domain, or acquired for a public use, the damages, proceeds, and the consideration for such acquisition, to the extent of the full amount of indebtedness upon this mortgage, and the Note secured hereby remaining unpaid, are hereby assigned by the Mortgagor to the Mortgagee and shall be paid forthwith to the Mortgagee to be applied by it on account of the indebtedness secured hereby, whether due or not.

10. Any promise made by the Mortgagor herein to pay money may be enforced by a suit at law, and the security of this mortgage shall not be waived thereby, and as to such debts the Mortgagor waives all right of exemption under the Constitution and laws of Alabama as to personal property and agrees to pay a reasonable attorney fee and court costs for the collection thereof.

11. In consideration of the making of the loan secured by this mortgage, the Mortgagor covenants and agrees that, in respect of the indebtedness secured hereby, they will forever waive, and they do hereby waive and give up all benefits, privileges, options, and rights of every kind and nature given to or which inure to the benefit or advantage of the undersigned, or either of the undersigned if more than one, under and by virtue of House Bill No. 422 of the Legislature of Alabama of 1935, enacted into law and approved on June 24, 1935, commonly referred to as the Deficiency Judgment Act; and further agree to waive and forego any like or similar rights, benefits and options hereafter conferred upon mortgage debtors by law hereafter enacted; and further covenants and agrees that the indebtedness hereby secured, and all extensions and renewals thereof, and this mortgage shall each be enforceable in accordance with their respective terms and conditions, without reference to and in spite of any provisions to the contrary in said Act of the Legislature of Alabama, and any and all other laws of like or similar purport which may hereafter be enacted.

12. The covenants, conditions, and agreements herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors, and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

13. If the Mortgagor shall fail to pay, or cause to be paid, as it matures, the indebtedness hereby secured or any part thereof, according to the terms thereof, or if the Mortgagor shall fail to do or perform any other act or thing herein required or agreed to be done or performed, or if the interest of the Mortgagee in said property becomes endangered by reason of the enforcement of any prior lien or encumbrances thereon, then, in any such event, the whole indebtedness hereby secured shall immediately become due and payable and this mortgage subject to foreclosure, at the option of the Mortgagee, without notice; and the Mortgagee shall have the right and is hereby authorized to enter upon and take possession of said property, and after or without taking possession, to sell the same before the Shelby County courthouse door in the city of Columbiana, Alabama, at public outcry, for cash, first giving notice of the time, place and terms of said sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper of general circulation published in said county, and upon the payment of the purchase money, the Mortgagee or any person conducting said sale for it is authorized to execute to the purchaser at said sale a deed to the property so purchased, and such purchaser shall not be held to inquire as to the application of the proceeds of such sale. The Mortgagee may bid at the sale and purchase said property, if the highest bidder therefor.

14. The proceeds of said sale shall be applied: First, to the expense of advertising and selling, including reasonable attorneys' fees and court costs; second, to the repayment of any money, with interest thereon, which the Mortgagee may have paid or become liable to pay or which it may then be necessary to pay for taxes, assessments, insurance and/or other charges, liens, or debts hereinabove provided; third, to the payment and satisfaction of the indebtedness hereby specially secured with interest, but interest to date of sale only shall be charged; fourth, the balance, if any, shall be paid to the Mortgagor. Reasonable attorneys' fees and court costs for foreclosing the same shall be paid out of the proceeds of the sale.

15. If the Mortgagor shall well and truly pay and discharge the indebtedness hereby secured as it shall become due and payable and shall do and perform all acts and agreements to be done and performed by the Mortgagor under the terms and provisions of this mortgage, then this conveyance shall be and become null and void.

Given under our hands and seals on this the 24<sup>th</sup> day of <sup>FEBRUARY</sup> ~~JANUARY~~, 1996.

Samuel Ward Nix [SEAL]  
SAMUEL WARD NIX

Bette Whitburn Nix [SEAL]  
BETTE WHITBURN NIX

STATE OF ALABAMA §  
SHELBY COUNTY §

I, EVELYN B. FELIKINS, a Notary Public in and for said county, in said State, hereby certify that SAMUEL WARD NIX and wife, BETTE WHITBURN NIX, whose names are signed to the foregoing Mortgage, and who are personally known to me, acknowledged before me on this day that, being informed of the contents of this Mortgage, they signed, executed and delivered the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal this 23<sup>rd</sup> day of <sup>FEBRUARY</sup> ~~JANUARY~~, 1996.

[SEAL]

Notary Public, Alabama State At Large

Notary Public

My commission expires: My Commission Expires Jan. 21, 1997 Inst # 1996-05930

This instrument was prepared by:

James M. Nix 02/26/1996-05930  
Jones and Nix 09:31 AM CERTIFIED  
Post Office Box 55601  
Jackson, Mississippi 39296-5601 68.50  
601-948-6800