

MORTGAGE

19960726000241131 Pg 1/3 00
Shelby Cnty Judge of Probate, AL
07/26/1996 08:36:55 FILED/CERTIFIED

MORTGAGOR(S)		ACCOUNT NUMBER	THIS INSTRUMENT WAS PREPARED BY MORTGAGEE	
CUNNINGHAM		895906097		
LAST NAME	FIRST	INITIAL	MORTGAGEE'S NAME	
CUNNINGHAM	KELVIN	K	CUNNINGHAM LULA K.	

MORTGAGEE
AVCO FINANCIAL SERVICES
2976 PELHAM PKWY STE D
PELHAM AL 35124
ALABAMA

That Mortgagor hereby grants, bargains, sells and conveys unto Mortgagee, the following described real estate in the County of SHELBY, State of Alabama, to wit:

SEE ATTACHED EXHIBIT "A" DATED 7/23/96 HERewith INCORPORATED

Inst # 1996-24113

07/26/1996-24113
08:36 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
JULY 23, 1996

TOGETHER WITH all buildings and improvements now or hereafter erected thereon and all easements, shades, storm ash and blinds, and heating, lighting, plumbing, gas, electric, ventilating, refrigerating and air-conditioning equipment used in connection therewith, all of which, for the purpose of this mortgage, shall be deemed to be fixtures and subject to the lien hereof, and the hereditaments and appurtenances pertaining to the property above described, all of which is referred to hereinafter as the "premises".

Mortgagor also assigns to Mortgagee all rents, issues and profits of said premises, granting the right to collect and use the same, with or without taking proceedings of the premises, during continuance of default hereunder, and during continuance of such default authorizing Mortgagee to enter upon said premises and/or collect and enforce the same without regard to adequacy of any security for the indebtedness hereby secured by any lawful means including appointment of a receiver or the name of any party hereto, and to apply the same less costs and expenses of operation and collection, including reasonable attorney's fees as provided below, upon any indebtedness secured hereby, in such order as Mortgagee may determine.

FOR THE PURPOSE OF SECURING: (1) Performance of each agreement of mortgagee contained herein; (2) Payment of the principal with such interest, as provided in accordance with the terms and provisions of a Promissory Note dated JULY 23, 1996, or as extended or rescheduled by the parties hereto; herewith executed by Mortgagor and payable in the order of Mortgagee to which Promissory Note reference is hereby made; (3) Payment of any additional advances, not in a principal sum or in arrears, as may hereafter be loaned by Mortgagee or the then holder of this Mortgage to Mortgagee, such and every advance to be evidenced by a Promissory Note of Mortgagee in the amount of the advance; (4) The payment of any money with interest thereon that may be advanced by the Mortgagee to third parties where the amounts are advanced to protect the security in accordance with the covenants of this Mortgage.

All payments made by Mortgagor on the obligation secured by this Mortgage shall be applied in the following order:
FIRST: To the payment of taxes and assessments that may be levied and assessed against said premises, insurance premiums, repairs, and all other charges and expenses agreed to be paid by the Mortgagor. SECOND: To the payment of principal and interest due on said note in the manner set forth in said note upon condition, however, that said Mortgagor pays said indebtedness and reimburses said Mortgagee or assigns for any amounts Mortgagee may have expended for taxes, assessments, and insurance and interest thereon as hereinafter provided.

TO PROTECT THE SECURITY HEREOF, MORTGAGOR COVENANTS AND AGREES: (1) To keep said premises insured against fire and such other casualties as the Mortgagee may specify, up to the full value of all improvements for the protection of Mortgagee in such manner, in such amounts, and in such companies as Mortgagee may from time to time approve, and to keep the policies thereof, properly endorsed, on deposit with Mortgagee, and that loss proceeds (less expenses of collection) shall, at Mortgagee's option, be applied on said indebtedness, whether due or not or to the restoration of said improvements. In event of loss Mortgagee will give immediate notice by mail to the Mortgagee who may make proof of loss if not made promptly by Mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Mortgagee instead of Mortgagor. (2) To pay all taxes and special assessments of any kind that have been or may be levied or assessed upon said premises, or any part thereof. (3) To keep said premises free from all prior liens except the existing first mortgage, if any, and upon demand of Beneficiary to pay and procure release of any lien which in any way may impair the security of this Mortgage. (4) To pay when due any prior lien or Mortgage on the premises and, notwithstanding any right or option granted by any prior lien or by any prior holder to permit the principal balance of such prior lien to increase, not to permit the principal balance of such prior lien to increase above the balance existing thereon at the time of the making of this Mortgage until this Mortgage shall have been paid in full. (5) In the event of default by Mortgagor under Paragraphs (1), (2), (3) or (4) above, Mortgagee, at its option (whether electing to declare the whole indebtedness secured hereby due and collectible or not), may (a) effect the insurance above provided for any pay the reasonable premiums and charges therefor; (b) pay all said taxes and assessments without determining the validity thereof; and (c) pay such lien and all such disbursements, with interest thereon from the time of payment at the highest rate allowed by law, and such disbursements shall be deemed a part of the indebtedness secured by this Mortgage and shall be immediately due and payable by Mortgagor to Mortgagee. (6) To keep the buildings and other improvements now or hereafter erected in good condition and repair, not to remove or suffer any waste or any use of said premises contrary to restrictions of record or contrary to laws, ordinances or regulations of proper public authority, and to permit Mortgagee to enter at all reasonable times for the purpose of inspecting the premises, not to remove or demolish any building thereon; to complete within One hundred Eighty (180) days or restore promptly and in a good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay, when due, all claims for labor performed and material furnished therefor. (7) That the time of payment of the indebtedness hereby secured, or of any portion thereof, may be extended or renewed and any portions of the premises herein described may, without notice, be released from the lien hereof, without releasing or affecting the personal liability of any person or corporation for the payment of said indebtedness or the lien of this instrument upon the remainder of said premises for the full amount of said indebtedness then remaining unpaid, and no change in the ownership of said premises shall release, reduce or otherwise affect any such personal liability on the lien hereby created. (8) That he is seized of the premises in fee simple and has good and lawful right to convey the same; and that he does hereby forever warrant and will forever defend the title and possession hereof against the lawful claims of any and all persons whatsoever.

IT IS MUTUALLY AGREED THAT: (1) If the Mortgagor shall fail or neglect to pay installments on said Promissory Note on the same day hereafter become due, or upon default in performance of any agreement hereunder, including causing or permitting the principal balance of any prior lien to increase above the principal balance of such lien existing at the time of the making of this Mortgage, or upon sale or other disposition of the premises by Mortgagor, or upon commencing without Mortgagee's prior written consent for any home improvement which could, if not paid for, give rise to a claim for mechanic's Lien under the Code of Alabama, or should any action or proceeding be filed in any court to enforce any lien on, claim against or interest in the premises, then all sums owing by the Mortgagor to the Mortgagee under this Mortgage or under the Promissory Note secured hereby shall immediately become due and payable at the option of the Mortgagee on the application of the Mortgagee or assignee or any other person who may be entitled to the monies due thereon; and after any one of said events this mortgage will be subject to foreclosure as now provided by law in case of past due mortgage, and the said Mortgagee, agents or assigns, shall be authorized to take possession of the premises hereby conveyed, and with or without first taking possession, after giving twenty-one days' notice, by publishing once a week for three consecutive weeks, the time, place and terms of sale, by Court House door of said county, (or the division thereof) where said property is located, at public outcry, to the highest bidder for cash, and apply the proceeds of the sale first, to the expense of advertising, selling and conveying, including, if the amount financed was more than \$100,000, a reasonable attorney's fee not to exceed 15% of the unpaid balance; second, to the payment of any amounts that may have been expended, or that it may be necessary to expend, in paying insurance, taxes, or other indebtedness, with interest thereon; Third, to the payment of the then balance of said indebtedness in full, 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 turned over to said Mortgagor and undesignated further agree that said Mortgagor, agents or assigns may bid at said sale and purchase said property, if the highest bidder thereafter.

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(2) Mortgagor agrees to surrender possession of the premises described herein to the Purchaser at the time said sale, and to pay to the Purchaser the reasonable value of the premises during or after the redemption period.

(3) In the event said premises are sold by Mortgagor, Mortgagor, if a signer on the note, shall be liable for any deficiency remaining after sale of the premises, and application of the proceeds of said sale to the indebtedness secured and to the expenses of conducting said sale, including attorney's fees and costs incurred as provided on the reverse side.

(4) At any time and from time to time, without affecting the liability of any person for the payment of the indebtedness secured hereby and without releasing the interest of any party joining in this Mortgage, Mortgagee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Mortgage or the lien or charge thereof; (d) grant any easement or modification of the terms of this loan; (e) release without warranty, all or any part of said property; Mortgagor agrees to pay a reasonable fee to Mortgagee for any of the services mentioned in this paragraph.

(5) Should said property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or by fire, flood, earthquake, or in any other manner, Mortgagee shall be entitled to all compensation, awards, and other payments so made therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement or discontinuance with respect to taking or damage. All such compensation, awards, damages, rights of action and proceeds are hereby assigned to Mortgagee who shall, after deducting therefrom all its expenses, including attorney's fees, as provided for on the reverse side, apply the same as provided above for satisfaction of the indebtedness. Mortgagee agrees to execute such further assignments of any compensation, award, damages, and the rights of action and proceeds as Mortgagee may require.

(6) Mortgagee shall be subrogated to the lien of any and all prior encumbrances, liens or charges paid and discharged from the proceeds of the loan hereby secured, and even though said prior liens have been released of record, the repayment of said indebtedness shall be deemed an advance on such loans on the portions of said premises affected thereby to the extent of such payments, respectively.

(7) Whenever, by the terms of this instrument or of said Promissory Note, Mortgagee is given any option, such option shall be exercised when the right accrues or at any time thereafter, and no acceptance by Mortgagee of payment of indebtedness in full or in part shall constitute a waiver of any default then existing and continuing or thereafter occurring.

(8) If Mortgagor shall pay said note at the time and in the manner aforesaid and shall comply with, and shall perform all the covenants and agreements herein, then this conveyance shall be null and void and Mortgagor will, within the statutory period after payment of said note, execute a release or satisfaction of this Mortgage.

(9) Notwithstanding anything in this Mortgage or the Promissory Note secured hereby to the contrary, whether this Mortgage and said Promissory Note shall be deemed to impose on the Mortgagor any obligation of payment, except to the extent that the same may be legally enforceable, and any provision to the contrary shall be of no force or effect.

(10) Except as provided to the contrary herein, all Mortgagors shall be jointly and severally liable for fulfillment of their covenants and agreements herein contained.

(11) If any of the undersigned is a married person, he represents and warrants that this instrument has been executed in his behalf, and for his wife and separate use and benefit and that he has not executed the same as surety for another, but that he is the Borrower hereunder.

(12) With respect to the real property conveyed by this Mortgage, each of us, whether Principal, Surety, Guarantor, Indorser, or other party hereto, hereby waives and renounces, each for himself and family, any and all homestead or exemption rights except as to guaranteed portion of the same under and by virtue of the Constitution or Laws of any State, or of the United States, as against this debt or any renewal thereof.

IN WITNESS WHEREOF the Mortgagors have hereunto set THEIR Signature S and seal, this 23RD day of JULY, 1996.

Signed, Sealed and Delivered in the presence of

Kenneth W. Butler
Witness
Kenneth W. Butler
Witness

Lula K. Cunningham (SEAL)
Mortgagor - Borrower
Lula K. Cunningham (SEAL)
Mortgagor - Borrower

THE STATE OF ALABAMA

COUNTY SHELBY

RONDA K. COOPER

I, RONDA K. COOPER, a Notary Public in and for said County,

in said State, hereby certify that KELVIN K. CUNNINGHAM

and WIFE LULA K. CUNNINGHAM

whose name S AB signed to the foregoing conveyance, and who ARE known to me, acknowledged before me on this day that, being

informed of the contents of the conveyance THEY executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 23RD day of JULY, 1996.

Ronda K. Cooper Notary Public

My Commission Expires February 15, 2000

Received for Recording:
Month _____ Day _____ Year _____
Time _____ o'clock _____ M.
Mortgage Record Number _____
Page Number _____
Recorder Signature _____
For _____
Recording Fee _____ County, State of Alabama

AVCO FINANCIAL SERVICES
MORTGAGE

EXHIBIT "A" DATED 7/23/96

19960726000241131 Pg 3/3 00
Shelby Cnty Judge of Probate, AL
07/26/1996 08:36:55 FILED/CERTIFIED

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COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 22 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA; THENCE RUN SOUTH 01 DEGREE 12 MINUTES EAST 557.28 FEET TO A POINT ON THE NORTHWEST RIGHT-OF-WAY OF SHELBY COUNTY HIGHWAY #12 (SPRING CREEK ROAD); THENCE RUN SOUTH 51 DEGREES 35 MINUTES WEST ALONG SAID RIGHT-OF-WAY 240.00 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 38 DEGREES 25 MINUTES WEST 179.68 FEET, THENCE RUN NORTH 14 DEGREES 23 MINUTES WEST 105.68 FEET, THENCE RUN NORTH 35 DEGREES 51 MINUTES EAST 98.86 FEET, THENCE RUN NORTH 45 DEGREES 11 MINUTES EAST 99.00 FEET, THENCE RUN NORTH 38 DEGREES 25 MINUTES WEST 500.93 FEET, THENCE RUN SOUTH 45 DEGREES 14 MINUTES WEST 303.84 FEET, THENCE RUN SOUTH 42 DEGREES 57 MINUTES WEST 84.35 FEET, THENCE RUN SOUTH 38 DEGREES 25 MINUTES EAST 524.78 FEET, THENCE RUN NORTH 51 DEGREES 35 MINUTES EAST 125.99 FEET, THENCE RUN SOUTH 38 DEGREES 25 MINUTES EAST 218.80 FEET TO A POINT ON THE NORTHWEST RIGHT-OF-WAY OF SHELBY COUNTY HIGHWAY #12 (SPRING CREEK ROAD); THENCE RUN NORTH 51 DEGREES 35 MINUTES EAST ALONG SAID RIGHT-OF-WAY 40.00 FEET TO THE POINT OF BEGINNING, CONTAINING 4.58 ACRES MORE OR LESS.

SUBJECT TO AND BENEFITING FROM A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES, 60 FEET WIDE, 30 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE, COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 22 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA; THENCE RUN SOUTH 01 DEGREE 12 MINUTES EAST 557.28 FEET TO A POINT ON THE NORTHWEST RIGHT-OF-WAY OF SHELBY COUNTY HIGHWAY #12 (SPRING CREEK ROAD); THENCE RUN SOUTH 51 DEGREES 35 MINUTES WEST ALONG SAID RIGHT-OF-WAY 240.00 FEET TO THE POINT OF BEGINNING OF SAID CENTERLINE, THENCE RUN NORTH 38 DEGREES 25 MINUTES WEST 179.68 FEET, THENCE RUN NORTH 14 DEGREES 23 MINUTES WEST 105.68 FEET TO THE END OF SAID CENTERLINE.

✓
KELVIN K. CUNNINGHAM

LULA K. CUNNINGHAM

WITNESS

Ronda Cooper
My Commission Expires February 15, 2000

Inst # 1996-24113

07/26/1996-24113
08:36 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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