

MORTGAGE DEED

Inst # 1996-41391

THE STATE OF ALABAMA, )

COUNTY OF SHELBY )

12/17/1996-41391  
09:01 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
006 MCD 58.80

Inst # 1996-41391

KNOW ALL MEN BY THESE PRESENTS, That whereas, the undersigned Bill's Contracting Service, Inc. hereinafter called the Mortgagor(s) have become justly indebted to Watters Distributing Company, Inc. dba Cash & Carry Building Supply Company 1300 8th Avenue North, Birmingham, Alabama 35203 (hereinafter called the Mortgagee) in the sum of **twenty-five thousand one hundred fifty three & 74/100 dollars (\$25153.74)** due by Promissory Note of even date which provides for monthly payments, with the full debt, if not paid earlier, due and payable on--February 1, 1998-----. This Security Instrument secures to the mortgagee; (a) the repayment of the debt evidenced by the said promissory note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, to protect the security of this Security Instrument; and (c) the performance of the Mortgagors covenants and agreements, under this Security Instrument and the Note. For this purpose, the Mortgagor(s), Bill's Contracting Service, Inc. an Alabama Corporation, does hereby mortgage, grant and convey to the mortgagee, Watters Distributing Company, Inc. the following described property located in Shelby County, Alabama.

**Legal Description:**

LOT 14, ACCORDING TO THE SURVEY OF ST. CHARLES PLACE, PHASE II, SECTOR V AS RECORDED IN MAP BOOK 20, PAGE 143 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA AND SITUATED IN SHELBY COUNTY, ALABAMA.

SUBJECT TO CURRENT TAXES, A LIEN BUT NOT YET PAYABLE.

LESS AND EXCEPT MINERAL AND MINING RIGHTS.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD, IF ANY.

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter becoming a part of the property. All replacements and additions shall also be conveyed by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

Mortgagors covenant that they are lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered except encumbrances of record, specifically a mortgage to New South Federal Savings Bank which is recorded as instrument no. 1996-08153 in the Real Property Records of the Probate Office of Shelby County, Alabama.

Uniform Covenants. Mortgagor and Mortgagee covenant and agree as follows;

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Mortgagor shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Application of Payments;** Unless applicable law provides otherwise, all payments received by mortgagee under paragraph 1 shall be applied: first,

to any prepayment charges due under this note; second, to interest due; third, to principal and last, to any late charges due under this note.

3. **Charges; Liens.** Mortgagor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, in any. Mortgagor shall pay these obligations on time directly to the person owed. Mortgagor shall furnish to mortgagee a copy of all notices of amounts to be paid under this paragraph. Mortgagor shall promptly discharge any lien or mortgage other than the first mortgage to New South Federal Savings Bank depicted above which has priority over this Security Instrument.

4. **Hazard or Property Insurance.** Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within term "extended coverage" and any other hazards, including floods or flooding, for which mortgagee requires insurance. This insurance shall be maintained in the amounts and for the periods that mortgagee requires. The insurance carrier providing the insurance shall be chosen by mortgagor subject to mortgage's approval which shall not be unreasonable withheld. If mortgagor fails to maintain coverage described above, mortgagee may, at his option, obtain coverage to protect mortgagee's rights in the Property.

5. **Preservation, Maintenance and Protection of the Property.** Mortgagor shall not destroy, damage, or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Mortgagor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in mortgagee's good faith judgement could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument.

6. **Protection of Mortgagees Rights in the Property.** If Mortgagor fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Mortgagee's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Mortgagee may do and pay for whatever is necessary to protect the value of the Property and mortgagee's rights in the Property. Mortgagee's action may include paying any sums secured by a lien which has priority over the Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Mortgagee may take action under this paragraph, Mortgagee does not have to do so.

Any amounts disbursed by Mortgagee under this paragraph shall become additional debt of Mortgagor secured by this Security Instrument. Unless the parties agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Mortgagee to Mortgagor requesting payment.

7. **Inspection.** Mortgagee or its agent may make reasonable entries upon and inspections of the Property. Mortgagee shall give Mortgagor notice at the time of or prior to an inspection specifying reasonable cause for inspection.

8. **Condemnation.** The proceeds of any award of claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are



hereby assigned and shall be paid to mortgagee.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by the Security Instrument, Whether or not then due, with any excess paid to Mortgagor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Mortgagor and Mortgagee otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Mortgagor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Mortgagor and Mortgagee otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by the Security Instrument whether or not the sums are then due.

If the Property is abandoned by Mortgagor, or if, after notice by Mortgagee to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Mortgagee within 30 days after the date the notice is given, Mortgagee is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by the Security Instrument, whether or not then due.

Unless Mortgagee and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

**9. Mortgagor Not Released; Forbearance By Mortgagee Not a Waiver.**

Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release the liability of the original Mortgagor. Mortgagee shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Mortgagor or Mortgagor's successors in Interest. Any forbearance by Mortgagee in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

**10. Successors and Assigns Bound; Joint and Several Liability;**

**Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Mortgagee subject to the provisions of this paragraph. Mortgagor(s) covenant that all statements and provisions within this agreement shall be applied jointly and severally to all Mortgagor(s). Any Mortgagor who co-signs this Security Instrument but does not execute the Note: (a) is co-signing the Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Mortgagee and any other Mortgagor may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Mortgagor's consent.

**11. Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Mortgagor which exceeded permitted limits will be refunded to Mortgagor. Mortgagee may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Mortgagor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

**12. Notices.** Any notice to Mortgagor provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Mortgagor designates by notice to Mortgagee. Any notice to Mortgagee shall be given by first class mail to Mortgagee's address stated herein or any other address Mortgagee designates by notice to Mortgagor. Any notice provided for in this Security Instrument shall be deemed to have been given to Mortgagor or Mortgagee when given as provided in this paragraph.

**13. Transfer of the Property or a Beneficial Interest in Mortgagor.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Mortgagee's prior written consent, Mortgagee may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Mortgagee if exercise is prohibited by federal law as of the date of this Security Instrument.

If Mortgagee exercise this option, Mortgagee shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Mortgagor must pay all sums secured by this Security Instrument. If Mortgagor fails to pay these sums prior to the expiration of this period, Mortgagee may invoke any remedies permitted by this Security Instrument without further notice or demand on Mortgagor.

**14. Mortgagor's Right to Reinstate.** If Mortgagor meets certain conditions, Mortgagor shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgement enforcing this Security Instrument. Those conditions are that Mortgagor: (a) pays Mortgagee all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorney's fees; and (d) take such action as Mortgagee may reasonably require to assure that the lien of this Security Instrument, Mortgagee's rights in the Property and Mortgagor's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Mortgagor, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 13.



15. **Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Mortgagor. A sale may result in a change in the entity (known as the "Loan Servicer, Mortgagee") that collects the payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Mortgagor will be given written notice of the change in accordance with paragraph 12 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

16. **Acceleration; Remedies.** Mortgagee shall give notice to Mortgagor prior to acceleration following Mortgagor's breach of any covenant or agreement in the Security Instrument (but not prior to acceleration under paragraph 13 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Mortgagor, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Mortgagor of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Mortgagor to acceleration and sale. If the default is not cured on or before the date specified in the notice, Mortgagee at its option may require immediate payment in full of all sums secured by this Security instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Mortgagee shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph including, but not limited to, reasonable attorney's fees and costs of title evidence.

If Mortgagee invokes the power of sale, Mortgagee must give a copy of a notice to Mortgagor in the manner provided in paragraph 12. Mortgagee shall publish the notice of sale once a week for three consecutive weeks in a newspaper published in Shelby County, Alabama, and thereupon shall sell the Property to the highest bidder at public auction at the front door of the County Courthouse of this County. Mortgagee shall deliver to the purchaser, Mortgagee's deed conveying the Property. Mortgagee or its designee may purchase the Property at any sale. Mortgagor covenants and agrees that the proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys fees; (b) to all sums secured by said First Mortgage depicted above and next to all sums secured by this Secured Instrument ; and (c) any excess to the person or persons legally entitles to it.

18. **Release.** Upon payment of all sums secured by this Security Instrument, Mortgagee shall prepare and file a discharge of this Security Instrument without charge to Mortgagor.

19. **Waivers.** Mortgagors waives all rights of homestead exemption in the Property and relinquishes all rights of curtesy and dower in the Property.

BY SIGNING BELOW, Mortgagor accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Mortgagor and recorded with it.

Signed, sealed and delivered  
in the presence of:

Mortgagor  
Bill's Contracting Service, Inc.  
by its President

William D. Murray  
William D. Murray

State of Alabama  
County of Shelby

On the 17 day of December, 1996, before me personally came,  
William D. Murray to me known, who being by me duly  
sworn, did depose and say that he is President, of Bill's  
Contracting Service, Inc., the corporation described in and which executed  
the foregoing Mortgage Deed, that he duly executed said Mortgage Deed in  
the Corporation's Name, that he is duly authorized to sign the same, and  
duly acknowledged to me that he executed the same as the act and deed of  
said Corporation.

( S E A L )

Ed G. Shortland  
Notary Public

My Commission expires MY COMMISSION EXPIRES FEB. 24, 2000

Inst # 1996-41391

12/17/1996-41391  
09:01 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
006 NCD 58.80

✓  
This instrument was prepared by James D. Long, Attorney at Law, P.O. Box  
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