

STATE OF ALABAMA )  
:  
SHELBY COUNTY )

Inst # 1996-42460

12/27/1996-42460  
03:35 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

# MORTGAGE

133.50

## KNOW ALL MEN BY THESE PRESENTS:

THIS MORTGAGE, is made and entered into on this the 23 day of December 1996, by and between SHELBY PROPERTIES, L.L.C., and Alabama limited liability company (hereinafter referred to as the "Mortgagor") and James Q. Richey, whose address is Hy 83 Box 245 HARPERSVILLE, AL 35076 (hereinafter referred to as the "Mortgagee"), to secure the payment of Eighty Thousand and 00/100ths Dollars (\$80,000.00) as evidenced by a Promissory Note of even date herewith (the "Note") and payable according to the terms of said Note.

NOW, THEREFORE, in consideration of the premises, the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagee the following described real estate situated in Shelby County, Alabama (the "Property"), to-wit:

See Attached Exhibit "A"

TO HAVE AND TO HOLD FOREVER, unto the said Mortgagee, Mortgagee's successors and assigns.

This Mortgage shall constitute a second mortgage on the Property, it being intended that this Mortgage be subordinate to an existing mortgage on the Property in the amount of Forty Six Thousand ~~Five~~ Hundred Dollars (\$46,000.00) in favor of Highland Bank.

The Premises is warranted free from all encumbrances and against adverse claims, except as stated herein.

In the event the Mortgagor shall sell, encumber or otherwise transfer the Premises or any part thereof or any interest therein without the prior written consent of the Mortgagee, the Mortgagee shall be authorized to declare at Mortgagee's option all or any part of such indebtedness immediately due and payable.

For the purpose of further securing the payment of the indebtedness, the Mortgagor agrees to pay all taxes or assessments when imposed legally upon the Premises, and should default be made in the payment of same, the Mortgagee may at Mortgagee's option pay off the same; and to further secure the indebtedness, Mortgagor agrees to keep the improvements on the Premises insured against loss or damage by fire, lightning and tornado for the fair and reasonable insurable value thereof, in companies satisfactory to the Mortgagee, with loss, if any, payable to Mortgagee as Mortgagee's interest may appear, and to promptly deliver said policies, or any renewal of said policies to Mortgagee; and if the undersigned fails to keep the Premises insured as above specified, or fails to deliver said insurance policies to Mortgagee, then Mortgagee, or Mortgagee's assigns, may at Mortgagee's option insure the Premises for said sum, for Mortgagee's own benefit, the policy if collected to be credited on the indebtedness, less cost of collecting same. All amounts so expended by Mortgagee for taxes, assessments or insurance, shall become a debt to Mortgagee or Mortgagee's assigns, additional to the debt hereby specially secured, and shall be covered by this Mortgage, and bear interest at the same interest rate as the indebtedness secured hereby from date of payment by Mortgagee or Mortgagee's assigns and be at once due and payable.

UPON CONDITION, HOWEVER, that if the Mortgagor pays the indebtedness, and reimburses Mortgagee or Mortgagee's assigns for any amounts Mortgagee may have expended, then this conveyance shall be null and void; but should default be made in the payment of any sum expended by the Mortgagee or Mortgagee's assigns, or should the indebtedness hereby

secured, or any part thereof, or the interest thereon remain unpaid at maturity, or should the interest of Mortgagee or Mortgagee's assigns in the Premises become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, then in any one of said events, the whole of the indebtedness hereby secured, at the option of Mortgagee or Mortgagee's assigns, shall at once become due and payable, and this Mortgage shall be subject to foreclosure as now provided by law in the case of past due mortgages, and the Mortgagee, Mortgagee's agents or assigns shall be authorized to take possession of the Premises hereby conveyed, and with or without first taking possession, after giving notice of the time, place and terms of sale, by publication once a week for three consecutive weeks, in some newspaper published in the county and state where the real estate is located, sell the same in lots or parcels or en masse as Mortgagee, Mortgagee's agents or assigns deem best, in front of the courthouse door of the county (or the division thereof), where the real estate is located, at public outcry, to the highest bidder for cash, and apply the proceeds of sale: First, to the expense of advertising, selling and conveying, including such attorney's fees as are allowed by law; Second, to the payment of any amounts that may have been expended, or that it may then be necessary to expend, in paying insurance, taxes, or the other encumbrances, with interest thereon; Third, to the payment of the indebtedness secured by any superior mortgages 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; Fourth to the payment of the indebtedness secured hereby 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 Fifth, the balance, if any, to be turned over to the Mortgagor. Mortgagor further agrees that Mortgagee, Mortgagee's agents or assigns may bid at said sale and purchase the Premises, if the highest bidder therefor. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

IN WITNESS WHEREOF, the undersigned Mortgagor has executed this Mortgage on the day and year first above written.

MORTGAGOR:  
SHEBLY PROPERTIES, L.L.C.

By:   
Robert Dallas Whitaker, Jr., Manager

STATE OF ALABAMA )  
COUNTY OF Jefferson )

I, the undersigned, a notary public in and for said county, in said state, hereby certify that Robert Dallas whitaker, Jr., the Manager of Shelby Properties, L.L.C., 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 said instrument, he, as such Manager and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this the 23 day of December, 1996.

  
NOTARY PUBLIC  
My Commission Expires: 2/2/2000

[AFFIX NOTARY SEAL]

THIS INSTRUMENT PREPARED BY:  
Bradley J. Sklar, Esq.  
SIROTE & PERMUTT, P.C.  
Post Office Box 55727  
Birmingham, AL 35255-5727

Exhibit "A"

## Property Description

### EXHIBIT A

Part of the SW 1/4 of the SE 1/4 of Section 21, Township 19 South, Range 2 East, Shelby County, Alabama, being more particularly described as follows:

From the SE corner of said SW 1/4 of SE 1/4 of said Section 21, run in a northerly direction along the east line of said 1/4-1/4 section for a distance of 274.80 feet to an existing iron rebar and being the point of beginning; thence continue in a northerly direction along last mentioned course for a distance of 400.94 feet to an existing old open top iron pin; thence turn an angle to the left of 90°37'31" and run in a westerly direction for a distance of 546.38 feet to an existing iron rebar being on the northeast right of way line of Shelby County Highway #83; thence turn an angle to the left of 126°14'13" and run in a southeasterly direction along the northeast right of way line of said Shelby County Highway #83 for a distance of 472.58 feet to an existing iron rebar; thence turn an angle to the left of 49°27'52" and run in an easterly direction for a distance of 263.39 feet, more or less, to the point of beginning.

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