

STATE OF ALABAMA

COUNTY OF ST. CLAIR

REAL ESTATE MORTGAGE

THIS MORTGAGE, made and entered into on this 23rd day of JULY, 1998, by and between
HAROLD W. DARBY III, A SINGLE MAN

(hereinafter referred to as "Mortgagor") and Metro Bank (hereinafter referred to as "Mortgagee").

Witnesseth:

WHEREAS, Mortgagor is justly indebted to Mortgagee, and hereby executes this Mortgage to secure the
payment of FIFTY THREE THOUSAND AND 00/100 Dollars (\$ 53,000.00)
as evidenced by promissory note of even date herewith and payable in accordance with the terms of said note.

WHEREAS, Mortgagor may hereafter become further indebted to Mortgagee as may be evidenced by promissory note(s) or otherwise, and it is the intent of the parties hereto that this mortgage shall secure any and all indebtedness(es) of Mortgagor to Mortgagee, whether now existing or hereafter arising, due or to become due, absolute or contingent, liquidated or unliquidated, direct or indirect, and this mortgage is to secure not only the indebtedness evidenced by the note hereinabove specifically referred to, but any and all other debts, obligations or liabilities of Mortgagor to Mortgagee, now existing or hereafter arising, and any and all extensions or renewals of same, or any part thereof, whether evidenced by note, open account, endorsement, guaranty, pledge or otherwise.

NOW, THEREFORE, Mortgagor and all others executing this mortgage, in consideration of the premises, and to secure the payment of said indebtedness evidenced by note hereinabove specifically referred to, and any and all other indebtedness(es) due or to become due as hereinabove generally referred to, and the compliance with all of the covenants and stipulations herein contained, has bargained and sold, and does hereby grant, bargain, sell, alien, convey, transfer and mortgage unto Mortgagee, its successors and assigns, the following described real estate, together with buildings and improvements thereon (hereinafter sometimes

called the "real estate" or the "mortgaged real estate"), lying and being situated in the County of SHELBY
State of Alabama, and more particularly described as follows, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PERMANENT PART THEREOF.

Inst # 1998-29146

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SHELBY COUNTY JUDGE OF PROBATE
58.00

together with all awards received through eminent domain, and payments upon any insurance policies covering the real estate, and all rights, privileges, tenements, and appurtenances thereunto belonging or in anywise appertaining to said real estate including easements and rights-of-way appurtenant thereto and all gas, steam, electric and other heating, cooling and lighting apparatus, elevators, iceboxes, plumbing, stoves, doors and other fixtures appertaining to the real estate and improvements located thereon, all of which shall be deemed realty and conveyed by this mortgage

TO HAVE AND TO HOLD the real estate, and every part thereof, unto Mortgagee, its successors and assigns forever. And Mortgagor covenants with Mortgagee that it is lawfully seized of the real estate in fee simple and has a good right to sell and convey the same as aforesaid, that the real estate is free of all encumbrances except as herein set out, and Mortgagor will warrant and forever defend the title to the real estate unto Mortgagee, its successors and assigns, against the lawful claims of all persons whomsoever

THIS MORTGAGE IS MADE, however, subject to the following covenants, conditions, agreements, and provisions

1 That Mortgagor shall pay the said indebtedness(es) secured hereby and interest thereon when and as it (they) shall become due, whether in course or under any condition, covenant or agreement herein contained, together with any other indebtedness(es) which Mortgagor may owe to Mortgagee it being further agreed that any statement, any note or obligation that is secured by this mortgage shall be conclusive evidence of such fact

2 (a) That Mortgagor shall provide, maintain and deliver to Mortgagee policies of fire insurance (with extended coverage), and such other insurance as Mortgagee may from time to time require in companies, form, types, and amounts, and shall assign, with endorsements satisfactory to Mortgagee and deliver to Mortgagee with mortgage clauses satisfactory to Mortgagee all insurance policies of any kind or in any amount now or hereafter issued with respect to the real estate. Not later than the first day following the expiration date of any and all such insurance policies and at any time upon request of Mortgagee, Mortgagor shall furnish Mortgagee certificates of insurance issued by insurance companies satisfactory to Mortgagee showing that the amount and type of insurance required by Mortgagee hereunder is in effect. All renewal policies, with premiums paid, shall be delivered to Mortgagee

reasonable attorney's fee, or reasonable attorneys' fees, as permitted by law for such services as may be, or have been, necessary in any one or more of the foreclosure of this mortgage, of the collection of said indebtedness(es), 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(es) or interested in the mortgaged real estate 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 indebtedness(es) and interest thereon specifically referred to hereinabove to the day of sale and any other indebtedness(es) secured by this mortgage; and (d) the balance, if any, shall be paid over to Mortgagor, or Mortgagor's 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.

15. That in the event of the enactment of any law by the State of Alabama, after the date of this mortgage, deducting from the value of the real estate for the purpose of taxation any lien thereon, or imposing any liability upon Mortgagee, in respect of the indebtedness(es) secured hereby, or changing in any way the laws now in force for the taxation of mortgages, or debts secured by mortgages, or the manner of collection of any such taxes, so as to affect this mortgage, Mortgagor shall pay any such obligation imposed on Mortgagee thereby, and in the event Mortgagor fails to pay such obligation or is prohibited by law from making such payment, the whole of the principal sum secured by this mortgage, together with the interest due thereon shall, at the option of Mortgagee, without notice to any party, become immediately due and payable.

16. That should Mortgagor become insolvent or bankrupt, or should a receiver of Mortgagor's property be appointed; or should Mortgagor intentionally damage or attempt to remove any improvements upon said mortgaged real estate; or should it be discovered after the execution and delivery of this instrument that there is a defect in the title to or a lien or encumbrance of any nature on the real estate prior to the lien hereof; or in case of an error or defect in the above described note or this instrument or in the execution or the acknowledgment thereof; or if a homestead claim be set up to the real estate or any part thereof adverse to this mortgage and if the said Mortgagor shall fail for thirty (30) days after demand by the Mortgagee, or other holder or holders of said indebtedness(es), to correct such defects in the title or to remove any such lien or encumbrance or homestead claim, or to correct any error in said note or this instrument or its execution; then, upon any such default, failure or contingency, the Mortgagee, or other holder or holders of said indebtedness(es), or any part thereof, shall have the option or right, without notice or demand, to declare all of said indebtedness(es) then remaining unpaid immediately due and payable, and may immediately or at any time thereafter foreclose this mortgage by the power of sale herein contained or by suit, as such Mortgagee, or other holder or holders of said indebtedness(es), may elect.

17. That no right, title or interest in or to the mortgaged real estate, or any part thereof, shall be sold, transferred, assigned, conveyed, mortgaged or encumbered by a lien at any time prior to the payment in full of the indebtedness(es) secured hereby without first obtaining the prior written consent and approval of Mortgagee which consent and approval shall be within Mortgagee's sole discretion; that in the event of any violation of this provision, the entire unpaid balance of the indebtedness(es) secured hereby, together with all interest thereon, shall become due and payable immediately at the option of Mortgagee without notice to Mortgagor, and shall be recoverable by Mortgagee forthwith or at any time thereafter without stay of execution or other process and failure of Mortgagor to pay all monies to Mortgagee secured by this mortgage shall be an act of default entitling Mortgagee to foreclose this mortgage in accordance with the terms hereof.

18. That it is the intent of the Mortgagor and Mortgagee to secure any and all indebtedness(es) of said Mortgagor to Mortgagee, now existing or hereafter arising, due or to become due, absolute or contingent, liquidated or unliquidated, direct or indirect, and this mortgage is intended and does secure, not only the indebtedness hereinabove specifically referred to, but also any and all other debts, obligations and liabilities of said Mortgagor to said Mortgagee, whether now existing or hereafter arising, and any and all extensions or renewals of same, or any part thereof, at any time before actual satisfaction and cancellation of this mortgage in the Probate Office where recorded, and whether the same be evidenced by promissory note, open account, endorsement, guaranty agreement, pledge agreement, or otherwise; that it is expressly agreed that any indebtedness at any time secured hereby may be extended, rearranged or renewed, and that any part of the security herein described may be waived or released without in anywise altering, varying or diminishing the force, effect or lien of this mortgage; and this mortgage shall continue as a first lien on all of the real estate and other property and rights covered hereby and not expressly released until all sums with interest and charges hereby secured are fully paid; and no other security now existing or hereafter taken to secure the payment of said indebtedness(es) or any part thereof shall in any manner be impaired or affected by the execution of this mortgage; and no security subsequently taken by Mortgagee or other holder or holders of said indebtedness(es) shall in any manner impair or affect the security given by this mortgage; and all security for the payment of said indebtedness(es) or any part thereof shall be taken, considered and held as cumulative.

19. That Mortgagor agrees for itself and any and all persons or concerns claiming by, through or under Mortgagor, that if it or any one or more of them shall hold possession of the above described real estate or any part thereof subsequent to foreclosure hereunder, it or the parties so holding possession, shall become and be considered as tenants at will of the purchaser or purchasers at such foreclosure sale; and any such tenant failing or refusing to surrender possession upon demand shall be guilty of forcible detainer and shall be liable to such purchaser or purchasers for reasonable rental of the real estate, and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages which may be sustained by any such tenant as a result thereof being hereby expressly waived.

20. That Mortgagor agrees to faithfully perform all the covenants of the lessor or landlord under present and future leases affecting the mortgaged real estate, and neither do nor neglect, nor permit to be done, anything which may diminish or impair their value, or the rents provided for therein, or the interest of the lessor or of the Mortgagee therein or thereunder.

21. That Mortgagor shall furnish to Mortgagee within N/A () days after the close of each fiscal year of Mortgagor, such financial records as the holder of this mortgage may require including, but not limited to, an annual statement of the operation of the real estate which shall include annual statements itemizing the income and expenses, an itemized rent roll, together with a complete financial statement of Mortgagor's assets and liabilities and its profit and loss statement. Such statement shall be prepared by certified public accountant acceptable to Mortgagee or at Mortgagee's discretion be supported by the affidavit of Mortgagor. Said information shall be given to Mortgagee at no expense to Mortgagee.

22. That if the indebtedness evidenced by the note specifically referred to hereinabove is being advanced by Mortgagee to Mortgagor under the terms and provisions and in accordance with a loan agreement or construction loan agreement ("agreement"), the terms and provisions of said agreement are hereby incorporated by reference as part of this mortgage as if fully set out herein, and any default in the performance of the provisions thereof, or any contract or agreement between Mortgagor and Mortgagee, shall constitute a default hereunder entitling Mortgagee to exercise the remedies provided herein, including the right to foreclose this mortgage in accordance with the terms hereof.

23. That in the event this mortgage is second and subordinate to any prior mortgage(s) and in the event the Mortgagor should fail to make any payments which become due on said prior mortgage(s), or should default in any of the other terms, provisions and conditions of said prior mortgage(s) occur, then such default under the prior mortgage(s) shall constitute an event of default under the terms and provisions of this mortgage, and the Mortgagee herein may, at its option, declare the entire indebtedness(es) secured by this mortgage immediately due and payable and if payment is not promptly made, then declare this mortgage in default and subject to foreclosure; provided that the Mortgagee herein may, at its option, make, on behalf of Mortgagor, any such payments which become due on said prior mortgage(s), or incur any such expense or obligations on behalf of Mortgagor, in connection with the said prior mortgage(s), in order to prevent the foreclosure of said prior mortgage(s), and all such amounts so expended by the within Mortgagee on behalf of said Mortgagor shall become a debt to the Mortgagee and shall be secured by this mortgage and shall bear interest from the date of payment at the maximum legal rate of interest from time to time permitted by the laws of the State of Alabama, and shall be at once due and payable, entitling the Mortgagee to all of the rights and remedies provided herein, including, at Mortgagee's option, the right to foreclose this mortgage.

24. That provided always that if Mortgagor pays the indebtedness(es) secured by this mortgage, and reimburses Mortgagee, its successors and assigns, for any amount it may have expended pursuant to the authorization of this mortgage, including without limitation, sums spent in payment of taxes, assessments, insurance or other liens and interest thereon, and shall do and perform all other acts and things herein agreed to be done, this conveyance shall be null and void; otherwise it shall remain in full force and effect.

25. That any promise made by 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 rights of exemption under the laws and Constitution of the State of Alabama and agrees to pay as permitted by law a reasonable attorney's fee for the collection thereof.

26. That no delay or failure of Mortgagee to exercise any option herein given or reserved shall constitute a waiver of such option or estop Mortgagee from afterwards exercising same or any other option at any time, and the payment, or contracting to pay, by Mortgagee of anything Mortgagor has herein agreed to pay shall not constitute a waiver of default of Mortgagor in failing to make said payments and shall not estop Mortgagee from foreclosing this mortgage on account of such failure of Mortgagor.

27. That 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 given or served, and shall not be deemed to have been given or served unless in writing and forwarded by registered or certified mail, return receipt requested, addressed as follows:

To Mortgagor: HAROLD W. DARBY III

435 DARBY RD

VINCENT, AL 35178

To Mortgagee: Metro Bank P. O. Box 465 Pell City, AL 35125

28. That singular or plural words used herein to designate the Mortgagor shall be construed to refer to the maker of this mortgage, and 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 its successors and assigns.

29. That 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. All rights or remedies of Mortgagee hereunder are cumulative and not alternative, and are in addition to those provided by law.

IN WITNESS WHEREOF, the undersigned (has) (have) set (its) (his) (her) (their) hand(s) and seal(s), on the day and year first above written.

WITNESSES:

Harold W. Darby III (SEAL)
HAROLD W. DARBY III (SEAL)
(SEAL)
(SEAL)

LHB/wp

STATE OF ALABAMA

ST CLAIR COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that
HAROLD W. DARBY III, A SINGLE MAN

whose name(s) (is) (are) signed to the foregoing conveyance and who (is) (are) known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, (he) (she) (they) executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 23rd day of JULY, 19 98

Dandra Lee
Notary Public

My Commission Expires March 22, 2000.

STATE OF ALABAMA

COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that

whose name as _____ of _____ is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the _____ day of _____, 19 _____

Notary Public

This instrument prepared by:

METRO BANK

800 MARTIN ST S

PELL CITY, AL 35128

EXHIBIT "A"

PARCEL I:

For a point of beginning commence at the true Northeast corner of the Northwest Quarter of the Southwest Quarter of Section 23, Township 19 South, Range 2 East, Shelby County, Alabama, and proceed South along the East boundary of said Northwest Quarter of the Southwest Quarter a distance of 1317.95 feet to the Southeast corner of said forty; thence turn 88 degrees 28 minutes right and proceed West along the true South boundary of said Quarter-Quarter Section a distance of 1306.21 feet to the true Southwest corner of said forty, thence turn 91 degrees 29 minutes right and proceed North along the True West boundary of said forty a distance of 305.30 feet; thence turn 92 degrees 01 minutes right and proceed Easterly a distance of 320.21 feet; thence turn 88 degrees 28 minutes left and proceed Northerly a distance of 153.3 feet; thence turn 34 degrees 21 minutes right and proceed Northeasterly a distance of 1137.50 feet to a point on the North boundary of said Northwest Quarter of the Southwest Quarter; thence turn 50 degrees 52 minutes right and proceed East along the North boundary of said forty a distance of 279.31 feet to the point of beginning of herein described parcel of land, the above described property being a part of the Northwest Quarter of the Southwest Quarter of Section 23, Township 19 South, Range 2 East, Shelby County, Alabama.

PARCEL II:

Also an easement for access to the above described property, said easement being 30 feet in width, the center line of same being more particularly described as follows: From the Northeast corner of the Northwest Quarter of the Southwest Quarter of Section 23, Township 19 South, Range 2 East, proceed South along the East boundary of said Northwest Quarter of the Southwest Quarter a distance of 27.6 feet to a point in the center of said easement and also being in the center of an existing gravel road, and being the point of beginning of herein described easement; thence turn 81 degrees 26 minutes left and proceed South 79 degrees 54 minutes East along the center line of said 30 foot easement a distance of 230.4 feet; thence continue along the center line of said 30 foot easement the following courses: North 86 degrees 48 minutes East a distance of 177.11 feet; thence South 84 degrees 19 minutes East a distance of 165.05 feet; North 87 degrees 09 minutes East a distance of 100.08 feet; thence North 75 degrees 04 minutes East a distance of 124.08 feet to a point in the center of a county paved road, being the point of termination of herein described easement.

Situated in Shelby County, Alabama.

SIGNED:

Harold W. Darby III
HAROLD W DARBY III

DATED THIS 23RD DAY OF JULY, 1998.

Inst # 1998-29146

07/30/1998-29146
03:14 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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