

MORTGAGE

THIS MORTGAGE, dated as of this 20TH day of SEPTEMBER, 2000 by et al
BRADLEY H. BYERS AND WIFE, KELLY E. BYERS (referred to as the "Mortgagor"), and **MARY ANN BYERS** (referred to as the "Mortgagee").

WHEREAS, Mortgagor is justly indebted to Mortgagee in the principal sum of **THREE HUNDRED SIXTEEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$316,500.00)**, or so much thereof as is advanced, as evidenced by that certain Guaranty (the "Guaranty") of even date herewith, executed by Mortgagor and delivered to Mortgagee.

NOW THIS MORTGAGE WITNESSETH: That Mortgagor, to better secure the payment of the principal sum set out in said Guaranty, and interest thereon, and in consideration thereof, and for other valuable considerations, has granted, bargained and sold and by these presents does give, grant, bargain and sell, convey, assign, transfer, pledge and set over unto Mortgagee and to its successors and assigns forever, that certain parcel of land (the "Land") lying and being in the County of Shelby, in the State of Alabama, more particularly described as:

Lot 24, according to the Survey of Greystone, 5th Sector, Phase II, as recorded in Map Book 17, Page 118 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Together with the nonexclusive easement to use the private roadways, Common Areas, and Hugh Daniel Drive, all as more particularly described in the Greystone Residential Declaration of Covenants, Conditions and Restrictions dated November 6, 1990 and recorded in Real 317 Page 260 in the Probate Office of Shelby County, Alabama and all amendments thereto.

Subject to existing easements, restrictions, set-back lines, rights of ways, limitations, if any, of record.

TOGETHER WITH all right, title and interest of Mortgagor in and to any and all fixtures and improvements of every nature, whether now owned or hereafter acquired, or in anyway relating to, arising from or used in connection with, the Land and including, without limitation, all buildings and other improvements now or hereafter located on or used in connection with the Land and all proceeds thereof, additions thereto and all renewals, replacements and replenishments thereof (all herein above described property, hereinafter collectively described as the "Property"); and

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereto belonging to the Land and the Property or in anywise thereunto appertaining, including any reversionary and existing interest in any roads or streets within or adjacent to the Land, any and all riparian rights, any and all development rights, any rights in any easements benefiting or serving the Land and Property, or any part thereof, and the rents, issues and profits thereof; which Property and Land, together with any and all tenements, hereditaments and appurtenances thereto belonging, as hereinabove described, shall be collectively hereinafter described as the "Premises;"

TO HAVE AND TO HOLD the above granted and described Premises to Mortgagee, its successors and assigns, forever, and Mortgagor does hereby fully warrant the title to the Premises

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and Mortgagor does hereby covenant with Mortgagee that Mortgagor has full power and lawful right to convey the Premises as aforesaid; that it shall be lawful at all times for Mortgagee to enter upon, hold and occupy the Premises; that Mortgagor will make such future assurances as are necessary to perfect title to the Premises and will defend the same against the lawful claims of all persons whomsoever; provided always that if Mortgagor shall pay to Mortgagee that certain Guaranty above described and shall perform all other covenants and conditions of said Guaranty, and of any renewal, extension or modification thereof, and of this Mortgage, then this Mortgage and the estate hereby created shall cease and be null and void.

Mortgagor further warrants, covenants and agrees with Mortgagee as follows:

1. To pay all sums secured hereby when due, as provided for in this Mortgage and in said Guaranty, and any renewal, extension or modification thereof, all such sums to be payable in lawful money of the United States of America at Mortgagee's address set forth herein or at such other place as Mortgagee may designate in writing.

2. To maintain the Premises in good condition and repair, including, but not limited to, the making of such repairs as Mortgagee may from time to time determine to be necessary for the preservation of the Premises and to not commit nor permit any waste thereof.

3. Mortgagor shall comply with all present and future laws, ordinances, rules, regulations, orders, and decrees of any governmental authority affecting the Premises or any part thereof. Without limiting the foregoing, Mortgagor represents and covenants that the Premises is in present compliance with, and in the future shall comply with, as applicable, the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101, et seq.), such Act as amended from time to time, and the rules and regulations adopted and promulgated pursuant thereto. Additionally, Mortgagor shall give immediate oral and written notice to Mortgagee of its receipt of any notice of a violation of any law, rule, or regulation covered by this Paragraph.

4. To keep the Premises insured for the benefit of the Mortgagee in the same manner as prudent owners of similar properties.

5. To first obtain the written consent of Mortgagee, such consent to be granted or withheld at the sole discretion of such Mortgagee, before: (i) altering or demolishing any building hereafter erected or already existing on the Premises; (ii) selling, contracting to sell, leasing or agreeing to lease all or any portion of the Premises; or (iii) encumbering the Premises or any part thereof or permitting any lien to be created thereon.

6. To pay when due, and without requiring any notice from Mortgagee, all taxes, assessments of any type or nature and other charges levied or assessed against the Premises and provide Mortgagee with proof of payment of same.

7. To pay to Mortgagee, immediately and without demand, all sums of money expended by Mortgagee pursuant to this Mortgage, including all costs, reasonable attorneys' fees, and other items of expense, together with interest on each such advancement at the default rate per annum provided in the Guaranty secured hereby and all such sums and interest thereon shall be secured hereby.

8. Upon the happening of any of the following events, any and all of which shall be deemed a default of Mortgagor's obligations hereunder, all indebtedness to Mortgagee

secured by this Mortgage shall thereupon or thereafter, at the option of the Mortgagee, become immediately due and payable as fully and completely as if the said indebtedness was originally stipulated to be paid on such day, anything in the Guaranty or herein to the contrary notwithstanding:

(i) if default should be made in payment of any installment due under the Guaranty secured hereby when due, or in payment when due of any other sum secured hereby, without notice or demand which are hereby expressly waived;

(ii) if default should be made in the performance of any of Mortgagor's obligations, covenants and agreements hereunder;

(iii) upon the institution of proceedings against the Premises by any party having a lien or claim against the Premises whether superior or junior to the lien of this Mortgage;

(iv) the death of any obligor, which term is defined to include the Mortgagor and any guarantor, maker, accommodation party or endorser of the Guaranty secured hereby;

(v) the filing of any petition under the Bankruptcy Act or Code, or any similar federal or state statute, by or against any obligor.

In such event, Mortgagee may avail itself of all rights and remedies provided herein, at law or in equity, and this Mortgage may be foreclosed with all rights and remedies afforded by the laws of the State of Alabama and Mortgagor shall pay all costs, charges and expenses thereof, including a reasonable attorneys' fee, through any appellate or related proceedings, whether prior to or after final judgment.

9. Under the occurrence of any event described in the preceding section 8:

(i) Mortgagee is authorized at any time, without notice, in its sole discretion to enter upon and take possession of the Premises or any part thereof, to perform any acts Mortgagee deems necessary or proper to conserve the security and to collect and receive all rents, issues and profits thereof, including those past due as well as those accruing thereafter; and

(ii) Mortgagee shall be entitled, as a matter of strict right and without regard to the value or occupancy of the security, to have a receiver appointed to enter upon and take possession of the Premises, collect the rents and profits therefrom and apply the same as the court may direct, such receiver to have all the rights and powers permitted under the laws of the State of Alabama.

10. No delay by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder.

11. All notices which Mortgagor may give Mortgagee in connection with this Mortgage shall be in writing, mailed by registered or certified mail, return receipt requested, or delivered to Mortgagee at the address shown below or at such other address as Mortgagee may from time to time notify Mortgagor of in writing:

Mary Ann Byers
P. O. Box 382015
Birmingham, AL 35238

12. The Mortgagor hereby agrees that this Mortgage is to be construed and enforced according to the laws of the state of Alabama.

13. Time is of the essence in all matters herein.

14. In the event any provision of this Mortgage shall be invalid, illegal or unenforceable, such provision or provisions shall be severable from the remainder of this Mortgage and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. Mortgagor hereby waives all right of homestead or other exemption in the property subject to this Mortgage.

16. The covenants 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, provided, however, Mortgagor must obtain the written consent of Mortgagee, which consent may be arbitrarily withheld, before assignment of any or all of its obligations hereunder. Wherever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders. All covenants, agreements and undertakings shall be joint and several. All references contained herein to "legal fees" or "counsel fees" and "costs" shall be deemed to include such fees and costs incurred by Mortgagee whether or not suit is instituted, and, if instituted, shall include such fees and costs incurred at the trial level and at all levels of appeal.

17. This Mortgage may not be modified, amended or terminated in whole or in part in any manner other than by an agreement in writing duly signed by Mortgagee and Mortgagor.

IN WITNESS WHEREOF, said Mortgagor has caused this Mortgage to be executed according to law, on the day and year first above written in the city of Birmingham, State of Alabama.


BRADLEY H. BYERS


KELLY E. BYERS

STATE OF ALABAMA)
) ss:
COUNTY OF SHELBY)

Before me, the undersigned Notary Public in and for said County in said State, personally appeared BRADLEY H. BYERS and KELLY E. BYERS, whose names are 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.

Given under my hand and official seal, this the 20TH. day of SEPTEMBER,
2000.

E. Stuart Conner
Notary Public
My Commission Expires: AUGUST 16, 2004

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02/13/2001-05058
11:04 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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