

Inst # 2001-54225

12/11/2001-54225
01:21 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 CH 167.60

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MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on October 16, 2001
The grantor is Clara Acre McBrayer

Ken Mitchell ("Mortgagor"). This Security Instrument is given to _____, which is organized and existing under the laws of _____, and whose address is 267 West Valley Ave.

#308, B'ham, Al. 35209 ("Mortgagee").
Mortgagor owes Mortgagee the principal sum of Ninetyeight thousand, four hundred Dollars (U.S. \$ 98,400⁰⁰). This debt is evidenced by

Mortgagor's Installment Sales Contract, Security Agreement and Disclosure Statement dated the same date as this Security Instrument ("Contract"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on October 16th, 2002. This Security Instrument secures to Mortgagee: (a) the repayment of the debt evidenced by the Contract, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Mortgagor's covenants and agreements under this Security Instrument and the Contract. For this purpose, Mortgagor does hereby mortgage, grant and convey to Mortgagee and Mortgagee's successors and assigns, with power of sale, the following described property located in Shelby County, Alabama:

Lot 5 according to the survey of Oldham Station, as recorded in Map Book 14, Page 64, in the Probate Office of Shelby County, Alabama.

which has the address of 117 Talmudge Dr. Pelham
[Street] [City]
Alabama 35124 ("Property Address");
[Zip Code]

TO HAVE AND TO HOLD this property unto Mortgagee and Mortgagee's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

MORTGAGOR COVENANTS that Mortgagor is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

This instrument was prepared by Clara McBrayer
117 Talmudge Dr.
Pelham Al. 35124

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 Contract and any prepayment and late charges due under the Contract.

2. Funds for Taxes and Insurance. Subject to applicable law and at the request of Mortgagee, Mortgagor shall pay to Mortgagee on the day monthly payments are due under the Contract, until the Contract is paid in full, a sum ("Funds) equal to one-twelfth of: (a) yearly taxes and assessments which may attain priority over this Security Instrument; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard insurance premiums; and (d) yearly mortgage insurance premiums, if any. These items are called "escrow items." Mortgagee may estimate the Funds due on the basis of current data and reasonable estimates of future escrow items.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Mortgagee if Mortgagee is such an institution). Mortgagee shall apply the Funds to pay the escrow items. Mortgagee may not charge for holding and applying the Funds, analyzing the account or verifying the escrow items, unless Mortgagee pays, Mortgagor interest on the Funds and applicable law permits Mortgagee to make such a charge. Mortgagor and Mortgagee may agree in writing that interest shall be paid on the Funds. Unless an agreement is made or applicable law requires interest to be paid, Mortgagee shall not be required to pay Mortgagor any interest or earnings on the Funds. Mortgagee shall give to Mortgagor, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Security Instrument.

If the amount of the Funds held by Mortgagee, together with the future monthly payments of Funds payable prior to the due dates of the escrow items, shall exceed the amount required to pay the escrow items when due, the excess shall be at Mortgagor's option, either promptly repaid to Mortgagor or credited to Mortgagor on monthly payments of Funds. If the amount of the Funds held by Mortgagee is not sufficient to pay the escrow items when due, Mortgagor shall pay to Mortgagee any amount necessary to make up the deficiency in one or more payments as required by Mortgagee.

Upon payment in full of all sums secured by this Security Instrument, Mortgagee shall promptly refund to Mortgagor any Funds held by Mortgagee. If under paragraph 19 the Property is sold or acquired by Mortgagee, Mortgagee shall apply, no later than immediately prior to the sale of the Property or its acquisition by Mortgagee, any Funds held by Mortgagee at the time of application as a credit against the sums secured by this Security Instrument.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Mortgagee under paragraphs 1 and 2 shall be applied: first, to late charges due under the Contract, second, to prepayment charges due under the Contract; third, to amounts payable under paragraph 2; fourth, to interest due; and last, to principal due.

4. 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, if any. Mortgagor shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Mortgagor shall pay them on time directly to the person owed payment. Mortgagor shall promptly furnish to Mortgagee all notices of amounts to be paid under this paragraph. If Mortgagor makes these payments directly, Mortgagor shall promptly furnish to Mortgagee receipts evidencing the payments.

Mortgagor shall promptly discharge any lien which has priority over this Security Instrument unless Mortgagor: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Mortgagee (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Mortgagee's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Mortgagee subordinating the lien to this Security Instrument. If Mortgagee determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Mortgagee may give Mortgagor a notice identifying the lien. Mortgagor shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard Insurance. Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards 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 Mortgagee's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Mortgagee and shall include a standard mortgage clause. Mortgagee shall have the right to hold the policies and renewals. If Mortgagee requires, Mortgagor shall promptly give to Mortgagee all receipts of paid premiums and renewal notices. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee. Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless Mortgagee and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Mortgagee's security is not lessened. If the restoration or repair is not economically feasible or Mortgagee's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Mortgagee that the insurance carrier has offered to settle a claim, then Mortgagee may collect the insurance proceeds. Mortgagee may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

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 the payments. If under paragraph 19 the Property is acquired by Mortgagee, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Mortgagee to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Preservation and Maintenance of Property; Leaseholds. Mortgagor shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Mortgagor shall comply with the provisions of the lease, and if Mortgagor acquires fee title to the Property, the leasehold and fee title shall not merge unless Mortgagee agrees to the merger in writing.

7. Protection of Mortgagee's Rights in the Property; Mortgage Insurance. 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 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 actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorney's fees and entering on the Property to make repairs. Although Mortgagee may take action under this paragraph 7, Mortgagee does not have to do so.

Any amounts disbursed by Mortgagee under this paragraph 7 shall become additional debt of Mortgagor secured by this Security Instrument. Unless Mortgagor and Mortgagee agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Contract rate and shall be payable, with interest, upon notice from Mortgagee to Mortgagor requesting payment.

If Mortgagee required mortgage insurance as a condition of making the loan secured by this Security Instrument, Mortgagor shall pay the premiums required to maintain the insurance in effect until such time as the requirement for the insurance terminates in accordance with Mortgagor's and Mortgagee's written agreement or applicable law.

8. 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 the inspection.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condem-

nation 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 this Security Instrument, whether or not then due, with any excess paid to Mortgagor. In the event of a partial taking of the Property, 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.

If the Property is abandoned by Mortgagor or if, after notice by Mortgagee to Mortgagor that the condemner 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 this 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.

10. 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 or Mortgagor's successors in interest. 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.

11. 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 Mortgagee and Mortgagor, subject to the provisions of paragraph 17. Mortgagor's covenants and agreements shall be joint and several. Any Mortgagor who co-signs this Security Instrument but does not execute the Contract: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Mortgagor's interest in the Property under the terms of this 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 Contract without that Mortgagor's consent.

12. 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 Contract 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 Contract.

13. Legislation Affecting Mortgagee's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Contract or this Security Instrument unenforceable according to its terms, Mortgagee, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 19. If Mortgagee exercises this option, Mortgagee shall take the steps specified in the second paragraph of paragraph 17.

14. 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 of Mortgagee when given as provided in this paragraph.

15. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Contract conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Contract which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Contract are declared to be severable.

16. Mortgagor's Copy. Mortgagor shall be given one conformed copy of the Contract and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Borrower. 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 laws as of the date of this Security Instrument.

If Mortgagee exercises 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.

18. 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 judgment 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 Contract had no acceleration 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 attorneys' fee; and (d) takes 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 paragraphs 13 or 17.

NON-UNIFORM COVENANTS Mortgagor and Mortgagee further covenant and agree as follows:

19. Acceleration; Remedies. Mortgagee shall give notice to Mortgagor prior to acceleration following Mortgagor's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraphs 13 and 17 unless applicable law provides otherwise). This 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 non-existence 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 19, including, but not limited to, reasonable attorney's fees and costs of title evidence.

If Mortgagee invokes the power of sale, Mortgagee shall give a copy of a notice to Mortgagor in the manner provided in paragraph 14. Lender shall publish the notice of sale once a week for three consecutive weeks in a newspaper published in the County and State where the Property is located, 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 this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

20. **Mortgagee in Possession.** Upon acceleration under paragraph 19 or abandonment of the Property, Mortgagee (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by Mortgagee or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument.

21. **Release.** Upon payment of all sums secured by this Security Instrument, Mortgagee shall release this Security Instrument without charge to Mortgagor. Mortgagor shall pay any recordation costs.

22. **Waivers.** Mortgagor 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.

Witnesses:

Clara Acre McBrayer (Seal)
Mortgagor

_____ (Seal)
Mortgagor

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF ALABAMA)
COUNTY OF Shelby)

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

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 11 day of December, 2001

Elyahuch M. Bishop
Notary Public
My Commission Expires: 10-7-05

TRANSFER AND ASSIGNMENT

STATE OF ALABAMA)
COUNTY OF _____)

For value received _____ hereby transfers, assigns and conveys unto _____, all right, title, interest, powers and options in, to and under the within Mortgage as well as to the land described therein and the indebtedness secured thereby.

In witness whereof the undersigned _____ hereunto set
Hand and seal, this _____ day of _____, 19____

(Seal)

CORPORATE ACKNOWLEDGEMENT

STATE OF ALABAMA)
COUNTY OF _____)

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/she 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
My Commission Expires: _____

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF ALABAMA)
COUNTY OF _____)

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

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 _____ day of _____, 19____

Notary Public 001-54225
12/11/01 My Commission Expires
01/21/02 CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 CH 167.60