

MORTGAGE AND SECURITY AGREEMENT

Mortgagor (last name first):

Mortgagee:

20030630000407210 Pg 1/6 41.60  
Shelby Cnty Judge of Probate, AL  
06/30/2003 10:16:00 FILED/CERTIFIED

WALLIS, PHILLIP BRIAN AND SPOUSE.

Frontier Bank, National Association

WALLIS, CHARLOTTE MASKE

Vincent Branch

767 HWY 62  
Mailing Address

P.O. 209  
Mailing Address

HARPERSVILLE AL 35078  
City State Zip

Vincent AL 35178  
City State Zip

STATE OF ALABAMA

COUNTY OF Shelby

THIS MORTGAGE AND SECURITY AGREEMENT (herein referred to as the "Mortgage") is made and entered into this day by and between Mortgagor and Mortgagee.

KNOW ALL MEN BY THESE PRESENTS: THAT WHEREAS  
PHILLIP BRIAN WALLIS AND SPOUSE, CHARLOTTE MASKE WALLIS

has become indebted to Mortgagee in the principal sum of Ten Thousand Three Hundred Thirty Nine and 43/100 Dollars (\$ 10,339.43 ) evidenced by ONE promissory note of even date herewith in favor of Mortgagee.

WHEREAS, Mortgagor desires to secure prompt payment of (a) the indebtedness described above according to its terms and any extensions, modifications or renewals thereof, (b) any additional and future advances with interest thereon that Mortgagee may make to Mortgagor as provided in Paragraph 2, (c) any other indebtedness that Mortgagor may now or hereafter owe to Mortgagee as provided in Paragraph 3, (d) any advances with interest that Mortgagee may make to protect the property herein conveyed as provided in Paragraph 5, 6, 7 and 8, and (e) any advance with interest that Mortgagee may make for attorneys' fees and other expenses as provided in Paragraph 19 (all being referred to herein as the "Indebtedness").

NOW THEREFORE, in consideration of the Indebtedness,  
PHILLIP BRIAN WALLIS AND SPOUSE, CHARLOTTE MASKE WALLIS

does hereby grant, bargain, sell and convey unto Mortgagee all of Mortgagor's right, title, and interest in and to and the real property described below situated in the County of Shelby, State of Alabama.

See exhibit "A"

Together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; and all water, water rights, watercourses and ditch rights relating to the real property (all being herein referred to as the "Property"). Notwithstanding any provision in this Mortgage or in any other agreement with Mortgagee, Mortgagee shall not have a nonpossessory security interest in, and the Property shall not include, any household goods (as defined in Federal Reserve Board Regulation AA, Subpart B), unless the household goods are identified in a security instrument and are acquired as a result of a purchase money obligation. Such household goods shall only secure said purchase money obligation (including any renewal or refinancing thereof).

TO HAVE AND TO HOLD the same and every part thereof unto Mortgagee, its successors and assigns forever.

If Mortgagor shall pay all Indebtedness promptly when due and shall perform all covenants made by Mortgagor, then this Mortgage shall be void and of no effect. If Mortgagor shall be in default as provided in Paragraph 12, then, in that event, the entire Indebtedness, together with all interest accrued thereon, shall, at the option of Mortgagee, be and become at once due and payable without notice to Mortgagor, and Mortgagee, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

(a) Mortgagee shall have all rights and remedies of a secured party under the Uniform Commercial Code to the extent any of the Property constitutes fixtures or other personal property.

(b) Mortgagee shall have the right, without notice to Mortgagor, to take possession of the Property and collect all rents as provided in Paragraph 9 and apply the net proceeds, over and above Mortgagee's costs, against the Indebtedness. In furtherance of this right, Mortgagee may require any tenant or other user of the Property to make payments of rent or use fees directly to Mortgagee. If the rents are collected by Mortgagee, then Mortgagor irrevocably designates Mortgagee as Mortgagor's attorney-in-fact to endorse instruments received in payment thereof in the name of Mortgagor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Mortgagee in response to Mortgagee's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Mortgagee may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

(c) Mortgagee shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Mortgagee's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Mortgagee shall not disqualify a person from serving as a receiver.



(d) Mortgagee shall have the right to obtain a judicial decree foreclosing Mortgagor's interest on the Property.

(e) Mortgagee shall be authorized to take possession of the Property, and, with or without taking such possession, after giving notice of the time, place and terms of sale, together with a description of the Property to be sold, by publication once a week for three (3) successive weeks in some newspaper published in the county or counties in which the Property to be sold is located, to sell the Property (or such part or parts thereof as Mortgagee may from time to time elect to sell) in front of the front or main door of the courthouse of the county or division of the county in which the Property to be sold, or a substantial and material part thereof, is located, at public outcry, to the highest bidder for cash. If the Property to be sold under this Mortgage is located in more than one county, publication shall be made in all counties where the Property to be sold is located. If no newspaper is published in any county in which any Property to be sold is located, the notice shall be published in a newspaper published in an adjoining county for three (3) successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale under this Mortgage. Mortgagee may bid at any sale had under the terms of this Mortgage and may purchase the Property if the highest bidder therefor. Mortgagor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, Mortgagee shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales.

(f) If permitted by applicable law, Mortgagee may obtain a judgment for any deficiency remaining in the indebtedness due to Mortgagee after application of all amounts received from the exercise of the rights provided in this Mortgage.

(g) If Mortgagor remains in possession of the Property after the Property is sold as provided above or Mortgagee otherwise becomes entitled to possession of the Property upon default of Mortgagor, Mortgagor shall become a tenant at sufferance of Mortgagee or the purchaser of the Property and shall, at Mortgagee's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Mortgagee.

From the proceeds of any sale of the Property, Mortgagee shall first pay all costs of the sale (including but not limited to reasonable attorneys' fee incurred by Mortgagee in connection therewith or in connection with any proceeding whatsoever, whether bankruptcy or otherwise, seeking to enjoin or stay the foreclosure of this Mortgage, or otherwise challenging the right of Mortgagee to foreclose this Mortgage); then amounts due on other liens and mortgages having priority over this Mortgage; then the Indebtedness due to Mortgagee; and then the balance, if any, to Mortgagor or to whomever then appears of record to be the owner of Mortgagor's interest in the Property, including but not limited to, any subordinate lienholder.

IT IS AGREED that this conveyance is made subject to the covenants, stipulations and conditions set forth below which shall be binding upon all parties hereto.

1. Mortgagor is lawfully seized in fee simple and possessed of the Property and has a good right to convey the same as aforesaid. The Property is free and clear of all encumbrances, easements, and restrictions not herein specifically mentioned or set forth in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Mortgagee in connection with this Mortgage. Mortgagor will warrant and forever defend the title to the Property against the claims of all persons whomsoever.

2. This Mortgage shall also secure all future and additional advances that Mortgagee may make to Mortgagor from time to time upon the security herein conveyed. Such advances shall be optional with Mortgagee and shall be on such terms as to amount, maturity and rate of interest as may be mutually agreeable to both Mortgagor and Mortgagee. Any such advance may be made to any one of the Mortgagors should there be more than one, and if so made, shall be secured by this Mortgage to the same extent as if made to all Mortgagors.

3. This Mortgage shall also secure any and all other indebtedness of Mortgagor due to Mortgagee with interest thereon as specified, or of any of the Mortgagors should there be more than one, whether direct or contingent, primary or secondary, sole, joint or several, now existing or hereafter rising at any time before cancellation of this Mortgage. Such Indebtedness may be evidenced by note, open account, overdraft, endorsement, guaranty or otherwise.

4. Notwithstanding the foregoing, if any disclosure required by 12 C.F.R. §§ 226.15, 226.19(b) or 226.23, or 24 C.F.R. §§ 2500.6, 3500.7, or 3500.10, or any successor or regulations, has not been timely provided in connection with one or more loans, credit extensions or obligations of Mortgagor, or any other person whose obligations are secured hereby, then the security interest in the Property granted hereby shall not secure the obligation or obligations for which the required disclosure was not given.

5. Mortgagor shall keep all buildings, improvements and fixtures on the real property herein conveyed insured against fire, all hazards included within the term "extended coverage," flood in areas designated by the U.S. Department of Housing and Urban Development as being subject to overflow, and such other hazards as Mortgagee may reasonably require in an amount sufficient to avoid application of any coinsurance clause. All policies shall be written by reliable insurance companies acceptable to Mortgagee, shall include a standard mortgagee's clause in favor of Mortgagee providing at least 10 days notice to Mortgagee of cancellation, and shall be delivered to Mortgagee. Mortgagor shall promptly pay when due all premiums charged for such insurance and shall furnish Mortgagee the premium receipts for inspection. Upon Mortgagor's failure to pay the premiums, Mortgagee shall have the right, but not the obligation, to pay such premiums or obtain single interest insurance for the sole benefit of Mortgagee (with such coverages as determined by Mortgagee in its sole discretion), and/or to hold the Mortgagor in default and exercise its rights as a secured creditor and may make use of any other remedy available under this Mortgage or any other agreements with the Mortgagor, including, but not limited to, foreclosure of the Property or any other collateral that secures the Indebtedness. In the event of a loss covered by the insurance in force, Mortgagor shall promptly notify Mortgagee, who may make proof of loss if timely proof is not made by Mortgagor. All loss payments shall be made directly to Mortgagee as loss payee, who may either apply the proceeds to the repair or restoration of the damaged improvements or to the Indebtedness, or release such proceeds in whole or in part to Mortgagor.

6. Mortgagor shall pay all taxes and assessments, general or special, levied against the Property or upon the interest of Mortgagee therein, during the term of this Mortgage before such taxes or assessments become delinquent, and shall furnish Mortgagee the tax receipts for inspection. Should Mortgagor fail to pay all taxes and assessments when due, Mortgagee shall have the right, but not the obligation, to make these payments.

7. Mortgagor shall keep the Property in good repair and shall not permit or commit waste, impairment or deterioration thereof. Mortgagor shall use the Property for lawful purposes only. Mortgagee may make or arrange to be made entries upon and inspections of the Property after first giving Mortgagor notice prior to any inspection specifying a just cause related to Mortgagee's interest in the Property. Mortgagee shall have the right, but not the obligation, to cause needed repairs to be made to the Property after first affording Mortgagor a reasonable opportunity (not to exceed 30 days) to make the repairs. Any inspection or repair shall be for the benefit of Mortgagee only.

Should the purpose of the primary indebtedness for which this Mortgage is given as security be for construction of improvements on the real property herein conveyed. Mortgagee shall have the right to make or arrange to be made entries upon the Property and inspections of the construction in progress, which shall be for Mortgagee's sole benefit. Should Mortgagee determine that Mortgagor is failing to perform such construction in a timely and satisfactory manner, Mortgagee shall have the right, but not the obligation, to take charge of and proceed with the construction at the expense of Mortgagor after first affording Mortgagor a reasonable opportunity (not to exceed 30 days) to continue the construction in a manner agreeable to Mortgagee.

8. Any sums advanced by Mortgagee for insurance, taxes, repairs or construction as provided in Paragraphs 5, 6 and 7 shall be secured by this Mortgage as advances made to protect the Property and shall be payable by Mortgagor to Mortgagee, with interest at the rate specified in the instrument representing the primary indebtedness, within thirty days following written demand for payment sent by Mortgagee to Mortgagor by certified mail. Receipts for insurance premiums, taxes and repair or construction costs for which Mortgagee has made payment shall serve as conclusive evidence thereof.

9. As additional security, Mortgagor hereby grants a security interest in and assigns to Mortgagee all of Mortgagee's right, title and interest in and to all leases of the Property and all rents (defined to include all present and future rents, revenues, income, issues, royalties, profits and other benefits) accruing on the Property. Mortgagor shall have the right to collect and retain any rents as long as Mortgagor is not in default as provided in Paragraph 12. In the event of default, Mortgagee in person, by an agent or by a judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and collect the rents. All rents so collected shall be applied first to the cost of managing the Property and collecting the rents, including fees for a receiver and an attorney, commissions to rental agents, repairs and other necessary related expenses, and then to payments on the Indebtedness.

10. If all or any part of the Property, or an interest therein, is sold or transferred by Mortgagor, excluding (a) the creation of a lien subordinate to this Mortgage for which Mortgagee has given its written consent, (b) a transfer by devise, by descent or by operation of law upon the death of a joint owner or (c) the grant of a leasehold interest of three years or less not containing an option to purchase, Mortgagee may declare all the Indebtedness to be immediately due and payable.

11. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Mortgagee may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Mortgagee in connection with the condemnation. If any proceeding in condemnation is filed, Mortgagor shall promptly notify Mortgagee in writing, and Mortgagor shall promptly take such steps as may be necessary to defend the action and obtain the award. Mortgagor may be the nominal party in such proceeding, but Mortgagee shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Mortgagor will deliver or cause to be delivered to Mortgagor such instruments as may be requested by it from time to time to permit such participation.



- (c) Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and is regulated presently or in the future by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the state where the Property is located or any political subdivision thereof; or
- (d) The presence of which on the Property causes or threatens to cause a nuisance upon the Property or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Property; or
- (e) The presence of which on adjacent properties could constitute a trespass by the Mortgagor; or
- (f) Which contains, without limitation, gasoline, diesel fuel or the constituents thereof, or other petroleum hydrocarbons; or
- (g) Which contains, without limitation, polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or
- (h) Which contains, without limitation, radon gas; or
- (i) Which contains, without limitation, radioactive materials or isotopes.

19. If Mortgagee institutes any suit or action to enforce any of the terms of this Mortgage, Mortgagee shall be entitled to recover such sum as the court may adjudge reasonable as attorneys’ fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Mortgagee that in the Mortgagee’s opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the rate provided for the primary indebtedness. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, attorneys’ fees and legal expenses whether or not there is a lawsuit, including attorneys’ fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors’ reports, and appraisal fees, and title insurance, to the extent permitted by applicable law. Mortgagor also will pay any court costs, in addition to all other sums provided by law. If this Mortgage is subject to Section 5-19-10, Code of Alabama 1975, as amended, any attorneys’ fees provided for in this Mortgage shall not exceed 15% of the unpaid Indebtedness after default and referral to an attorney who is not a salaried employee of the Mortgagee.

20. This Mortgage, together with any related documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendments.

21. This Mortgage has been delivered to Mortgagee and accepted by Mortgagee in the State of Alabama. Subject to the provisions on arbitration, this Mortgage shall be governed by and construed in accordance with the laws of the State of Alabama.

22. Mortgagor hereby releases all rights and benefits of the homestead exemption laws of the State of Alabama as to the Property.

23. Time is of the essence in the performance of this Mortgage.

24. If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage on the 25 th day of April, 2003 .

This Instrument prepared by:

Frontier Bank, National Association  
P.O. 209  
Vincent, AL 35178

MORTGAGOR:

Phillip Brian Wallis  
PHILIP BRIAN WALLIS  
Charlotte Maske Wallis  
CHARLOTTE MASKE WALLIS

Subdivision		Lot	Plat Book	Page
QQ	Q	S	T	R

SOURCE OF TITLE	
BOOK	PAGE

# CERTIFICATE

State of ALABAMA  
Shelby County

In compliance with Ala. Code § 40-22-2 (1975), the owner of this Mortgage hereby certifies that the amount of indebtedness presently incurred is \$10,339.43 upon which the mortgage tax is paid herewith, and owner agrees that no additional or subsequent advances will be made under this Mortgage unless the Mortgage tax on such advances is paid into the appropriate Judge of Probate office no later than each September hereafter or a document evidencing such advances is filed for record in the above said office and the recording fee and tax applicable thereto paid.

Mortgagor: **WALLIS, PHILLIP BRIAN AND SPOUSE, WALLIS, CHARLOTTE MASKE**

Mortgagee: Frontier Bank, National Association

Date, Time and Volume and  
Page of recording as shown hereon.

By: *Faye McGuire*

FAYE MCGUIRE

Title: LOAN OFFICER

## INDIVIDUAL ACKNOWLEDGMENT

STATE OF ALABAMA  
COUNTY OF SHELBY

I, Linda Pearce, a Notary Public in and for said County, in said State, hereby certify that Phillip Brian Wallis, whose name 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, has, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 25th day of April 2003.

*Linda Pearce*  
Notary Public

My Commission expires: MY COMMISSION EXPIRES AUG. 20, 2006

## INDIVIDUAL ACKNOWLEDGMENT

STATE OF ALABAMA  
COUNTY OF SHELBY

I, Linda Pearce, a Notary Public in and for said County, in said State, hereby certify that Charlotte Maske Wallis, whose name 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, has, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 25th day of April 2003.

*Linda Pearce*  
Notary Public

My Commission expires: MY COMMISSION EXPIRES AUG. 20, 2006

CORPORATE OR OTHER ACKNOWLEDGMENT

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_, of \_\_\_\_\_, a \_\_\_\_\_, 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 said conveyance, \_\_\_\_\_, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, on the day the same bears date.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_.

_____	_____
	Notary Public
_____	My Commission expires:_____

## " EEXHIBIT A "

ALTA Commitment (1982)

***First American Title Insurance Company*****SCHEDULE A – LEGAL DESCRIPTION**

Agent's File No.: 143479

20030630000407210 Pg 6/6 41.60  
Shelby Cnty Judge of Probate, AL  
06/30/2003 10:16:00 FILED/CERTIFIED

A part of the SE ¼ of the NE ¼ of Section 26, Township 19 South, Range 2 East, more particularly described as follows:

Commence at the SE corner of Section 26, Township 19 South, Range 2 East; thence proceed North along the East boundary of said section for a distance of 3184.7 feet; thence proceed North 88 deg. 30 min. West for a distance of 939.15 feet to a point on the North right of way line of Shelby County Highway No. 62 and the point of beginning. From this beginning point proceed North 1 deg. 01 min. 10 sec. West for a distance of 186.35 feet; thence proceed South 88 deg. 58 min. 50 sec. West for a distance of 145 feet; thence proceed South 0 deg. 58 min. 50 sec. West for a distance of 192 feet to a point on the North right of way line of said Highway; thence proceed North 86 deg. 53 min. 30 sec. East along the North right of way line of said highway for a distance of 151.8 feet to the point of beginning. The above described land is located in the SE ¼ of the NE ¼ of Section 26, Township 19 South, Range 2 East, Shelby County, Alabama.