

R0312-1861DJ

THIS INSTRUMENT WAS PREPARED BY:

JON M. TURNER, JR.  
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2125 MORRIS AVENUE  
BIRMINGHAM, ALABAMA 35203

3<sup>RD</sup> MORTGAGE



20031217000809890 Pg 1/5 323.00  
Shelby Cnty Judge of Probate, AL  
12/17/2003 09:45:00 FILED/CERTIFIED

STATE OF ALABAMA)  
SHELBY COUNTY)

**MORTGAGE**

KNOW ALL MEN BY THESE PRESENTS: That Whereas TIMOTHY H. SMALL AND MAUREEN SMALL, HUSBAND AND WIFE ("Mortgagor"), has become justly indebted to FIRST COMMERCIAL BANK ("Mortgagee"), in the full sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) until paid for which amount the Mortgagor has signed and delivered to the said Mortgagee a certain promissory note of even date herewith payable with monthly payments commencing on February 1, 2004, and continuing to be due and payable on the first day of each month thereafter until January 1, 2009, at which time the entire unpaid principal balance together with any accrued and unpaid interest shall be due and payable in full.

WHEREAS, the said Mortgagor has agreed, in incurring said indebtedness, that this mortgage should be given to secure the prompt payment thereof, and any additional indebtedness accruing to the Mortgagee on account of any future payments, advances or expenditures made by the Mortgagee as hereinafter provided.

NOW THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) to the undersigned Mortgagor in hand paid by the Mortgagee, the receipt whereof is hereby acknowledged, and for the purpose of securing the prompt payment of said indebtedness as same becomes due the said Mortgagor, do hereby grant, bargain, sell and convey unto the said Mortgagee the real property situated in Shelby County, Alabama and more particularly described on Exhibit A attached hereto and incorporated herein by reference, together with the hereditaments and appurtenances thereunto belonging, and all fixtures and equipment now or hereafter attached to or used in connection with the premises herein described.

And the Mortgagors hereby covenant that they are seized of said real property in fee simple, and have a good right to sell and convey the same; that the property is free from all encumbrances and adverse claims and that the Mortgagors, and Mortgagors' heirs, executors, administrators and assigns will forever defend the same unto the Mortgagee and assigns against the claims of all persons whomsoever.

TO HAVE AND TO HOLD the above granted premises unto the said Mortgagee forever; and for the purpose of further securing the payment of said indebtedness, the undersigned, agrees to pay all taxes or assessments when legally imposed upon said premises, and should default be made in the

payment of same, said Mortgagee has the option of paying off the same; and to further secure said indebtedness, the undersigned agrees to keep the improvements on said real property insured against loss or damage by fire, lightning and tornado for the reasonable insurable value thereof, in companies satisfactory to the Mortgagee, with loss, if any, payable to said Mortgagee, as the interest of said Mortgagee may appear, and promptly to deliver said policies, or any renewals or extensions of said policies, to said Mortgagee; and if Mortgagor fails to keep said property insured as above specified, or fails to deliver said insurance policies to said Mortgagee, then said Mortgagee has the option of insuring said property for said sum for the benefit of said Mortgagee, the policy, if collected, to be credited on said indebtedness, less the cost of collecting same; and all amounts so expended by said Mortgagee for taxes, assessments or insurance shall become a debt to said Mortgagee, in addition to the debt hereby specially secured, and shall be secured by the within mortgage and bear interest from the date of payment by said Mortgagee, or assigns, the same rate of interest provided for hereinabove, and be at once due and payable.

Upon condition, however, that if the said Mortgagor pays said indebtedness, and reimburses said Mortgagee or assigns for any amounts Mortgagees may have expended for taxes, assessments and insurance, and interest thereon, then this conveyance to be null and void; but should default be made in the payment of any sum expended by the said Mortgagee or assigns, or should Mortgagor become in default by failing to pay any installment of principal and/or interest when the same is payable according to the terms, conditions and tenor of the promissory note executed by Mortgagor simultaneously herewith, or should said indebtedness hereby secured, or any part thereof, or the interest thereon, remain unpaid at maturity or should the interest of said Mortgagee or assigns in said property 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 said indebtedness hereby secured shall at once become due and payable without notice or demand, and this mortgage shall be subject to foreclosure as now provided by law in case of past due mortgages, and the said Mortgagee, agents or assigns, shall be authorized to take possession of the premises hereby conveyed, and with or without first taking possession, by publishing once a week for three (3) consecutive weeks, the time, place and terms of sale, by publication in some newspaper published in said County and State, sell the same in lots or parcels or en masse as Mortgagee, agents or assigns deem best, in front of the Court House door of said County, (or the division thereof) where said property is located, at public outcry, to the highest bidder for cash, and apply the proceeds of the sale: First, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; 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 other encumbrances, with interest thereon; Third, to the payment of said indebtedness 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 Fourth, the balance, if any, to be turned over to the said Mortgagor and undersigned further agree that said Mortgagee, agents or assigns may bid at said sale and purchase said property, if the highest bidder therefore; and undersigned further agrees to pay a reasonable attorney's fee to said Mortgagee or assigns, for the foreclosure of this mortgage in Chancery, should the same be so foreclosed, said fee to be a part of the debt hereby secured.



If all or any part of the real property or any interest therein is sold or transferred by the Mortgagor without the Mortgagee's prior consent, then in that event, the Mortgagee may, at its option, require immediate payment in full of all sums then outstanding and secured by this Mortgage.

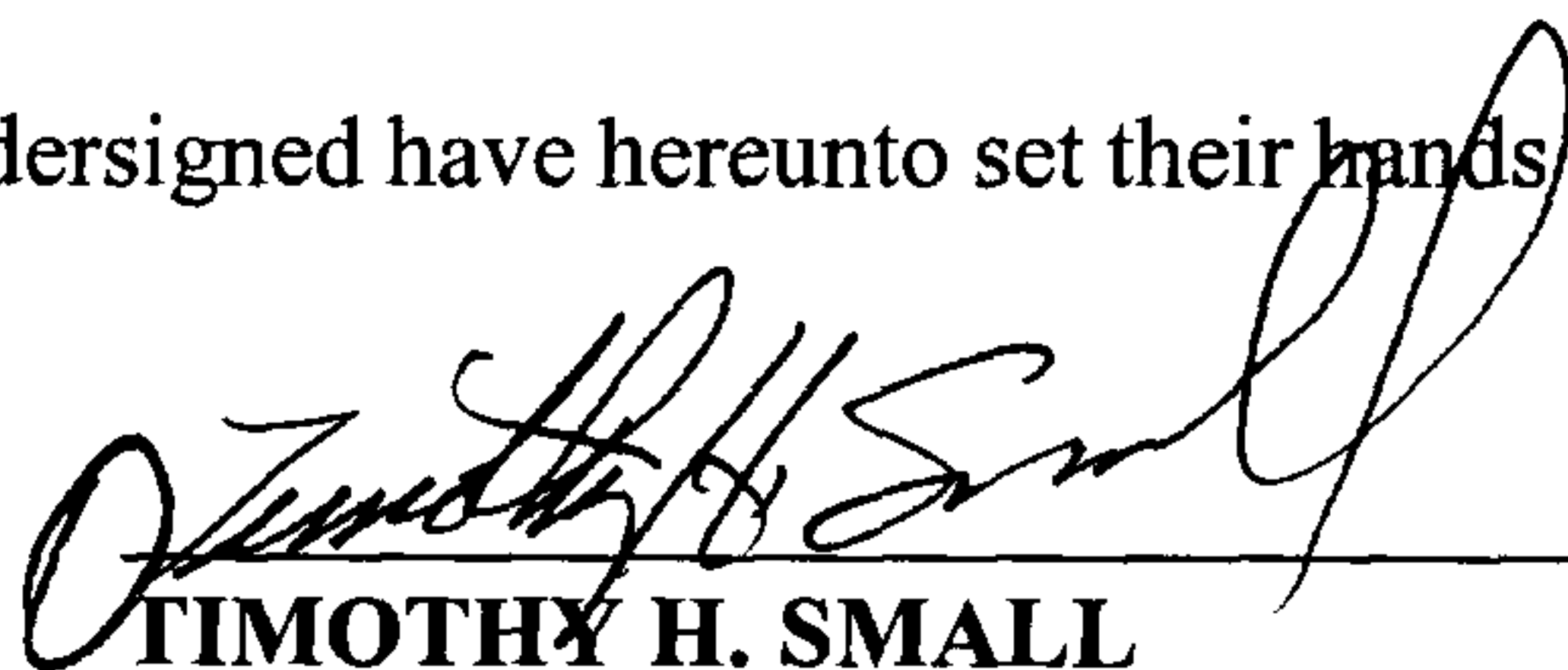
No failure of the Mortgagee to exercise any option herein given to declare the maturity of indebtedness hereby secured shall be taken or construed as a waiver of its right to exercise such option or to declare such maturity by reason of any past or present default on the part of the Mortgagor; and the procurement of insurance or the payment of taxes or other liens, debts or charges by the Mortgagee shall not be taken or construed as a waiver of its right to declare the maturity of the indebtedness hereby secured by reason of the failure of the Mortgagor to procure such insurance or to pay such taxes, debts, liens or charges.


As long as any of the indebtedness hereby secured shall remain unpaid, the Mortgagor will neither commit nor permit waste on the premises hereby conveyed, nor will the Mortgagor remove any of the fixtures, appliances or equipment on said premises; and upon the commission of any waste thereon or removal of any of the fixtures, appliances or equipment therefrom, the Mortgagee may, at its option, declare the entire indebtedness hereby secured to be at once due and payable.

Any obligation made by the Mortgagor herein to repay the indebtedness hereby secured 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 hereby waives all right of exemption under the Constitution and laws of the State of Alabama as to personal property and hereby agrees to pay a reasonable attorney's fee for the collection thereof.

The covenants, conditions and agreements herein contained shall bind, and the benefits and advantages shall insure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, on this the 11th day of December, 2003.

 (SEAL)  
TIMOTHY H. SMALL

 (SEAL)  
MAUREEN SMALL

STATE OF ALABAMA)  
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that TIMOTHY H. SMALL AND MAUREEN SMALL, HUSBAND AND WIFE, 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, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 11<sup>th</sup> day of December, 2003.

(AFFIX SEAL)

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 1/10/07

## **EXHIBIT A**

### **Legal Description**

COMMENCE AT THE SW CORNER OF THE SE 1/4 OF THE NW 1/4 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 2 WEST; THENCE RUN EAST ALONG THE SOUTH LINE OF SAID 1/4-1/4 SECTION 330.6 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SECTION COURSE 330.6 FEET; THENCE TURN 91 DEGREES 59 MINUTES 40 SECONDS LEFT AND RUN 660.0 FEET; THENCE TURN 88 DEGREES 00 MINUTES 20 SECONDS LEFT AND RUN 330.6 FEET; THENCE TURN 91 DEGREES 59 MINUTES 40 SECONDS LEFT AND RUN 660.0 FEET TO THE POINT OF BEGINNING; LESS AND EXCEPT A 50.00 FOOT WIDE RIGHT OF WAY FOR A PUBLIC ROAD. SITUATED IN SHELBY COUNTY, ALABAMA.