

**THIRD AMENDMENT TO MORTGAGE, ASSIGNMENT  
OF RENTS AND LEASES AND SECURITY AGREEMENT  
DATED MAY 8, 1996  
AND  
FIRST AMENDMENT TO ACCOMMODATION  
REAL ESTATE MORTGAGE AND SECURITY AGREEMENT  
DATED OCTOBER 4, 1996**

THIS THIRD AMENDMENT TO MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT DATED MAY 8, 1996 AND FIRST AMENDMENT TO ACCOMMODATION REAL ESTATE MORTGAGE AND SECURITY AGREEMENT DATED OCTOBER 4, 1996 is made and entered into this 30<sup>th</sup> day of September, 1998, between TERRY M. HABSHEY (hereinafter referred to as "Mortgagor" and "Guarantor") and wife, AMY H. HABSHEY, as spouse of Mortgagor, and FIRST COMMERCIAL BANK (hereinafter referred to as "Lender").

**RECITALS**

**WHEREAS**, Mortgagor is owner of the land and improvements located in Shelby County, Alabama, and more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Farm Property"); and

**WHEREAS**, Mortgagor is owner of the land and improvements located in Shelby County, Alabama, and more particularly described on Exhibit "B" attached hereto and made a part hereof (the "Elvira Lake Property"); and

**WHEREAS**, the Farm Property and the Elvira Lake Property are collectively referred to herein as the "Premises"; and

**WHEREAS**, Amy H. Habshey as spouse of Mortgagor hereby joins in to convey any right, title and interest she may have to Lender in the Farm Property and the Elvira Lake Property; and

**WHEREAS**, Lender is now the lawful owner and holder of (a) that certain Mortgage, Assignment of Rents and Leases and Security Agreement dated May 8, 1996 and recorded at Instrument Number 1996-15348 of the Shelby County Probate Court (the "Mortgage"), securing payment of the sum of \$830,000.00, together with interest thereon, which Mortgage was amended by Amendment to Mortgage, Assignment of Rents and Leases and Security Agreement dated October 4, 1996 (the "Amendment"), which Amendment was recorded at Instrument Number 1996-33186 of the Shelby County Probate Office, and provided for an increase in the loan amount from \$830,000.00 to \$1,230,000.00, which Mortgage was further amended by Second Amendment to Mortgage, Assignment of Rents and Leases and Security Agreement dated April 25, 1997 (the "Second Amendment"), which Second Amendment was recorded at Instrument Number 1997-13852 of the Shelby County Probate Office, and provided for an increase in the loan amount from \$1,230,000.00 to \$2,000,040.00 (said Mortgage, Amendment and Second Amendment is hereby collectively referred to as the "Farm Mortgage"); and (b) the Note secured by said Farm Mortgage encumbers the Premises; and

**WHEREAS**, Lender is now the lawful owner and holder of that certain Accommodation Real Estate Mortgage and Security Agreement dated October 4, 1997 and recorded at Instrument No. 1996-33188 of the Shelby County Probate Office (the "Elvira Lake Mortgage"), securing the sum of \$400,000.00, together with interest thereon; and

**WHEREAS**, the Farm Mortgage and the Elvira Lake Mortgage, is a valid and enforceable lien upon the Premises.

09/30/1998-38083  
10:23 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
DCC CRH 2268.50

Incl. # 1998-38083

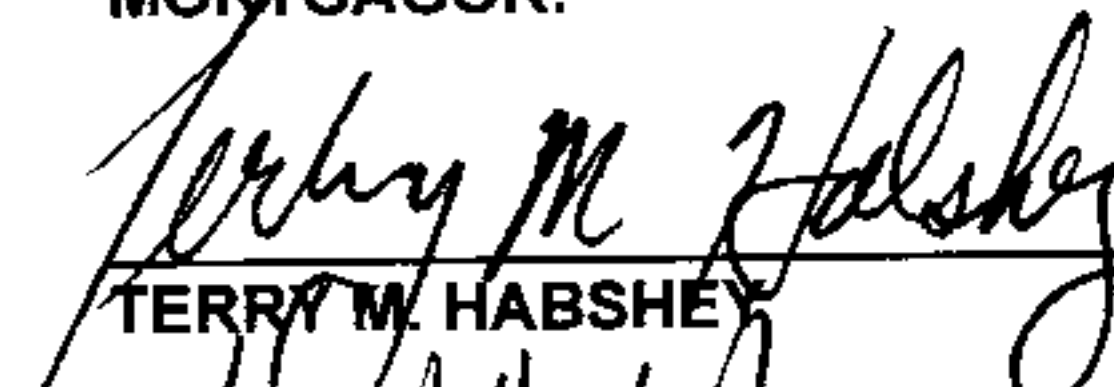

**WHEREAS,** Lender, Mortgagor and Guarantor have agreed to increase the loan amount from \$2,000,040.00 to \$3,500,000.00 on the Farm Mortgage, and to modify the terms thereof, all in the manner hereinafter set forth.

**NOW THEREFORE,** in consideration of the premises, covenants and mutual agreements hereinafter set forth, the parties hereto agree as follows:

1. The loan amount, i.e., \$2,000,040.00 is increased to \$3,500,000.00 as evidenced by a Promissory Note of even date herewith, and the loan amount, as set forth in the Farm Mortgage is hereby amended to \$3,500,000.00, and all references in said Farm Mortgage to the sum of \$2,000,040.00 are amended to reflect the sum of \$3,500,000.00.
2. Mortgagor hereby (a) ratifies and confirms the lien, conveyance and grant contained in and created by the Farm Mortgage, as the same is modified and extended in the Farm Mortgage, and (b) agrees that nothing contained in this Agreement is intended to or shall impair the lien, conveyance and grant of the Farm Mortgage, as the same is modified.
3. Mortgagor hereby (a) ratifies and confirms the lien, conveyance and grant contained in and created by the Elvira Lake Mortgage, as the same is modified and extended in the Elvira Lake Mortgage, and (b) agrees that nothing contained in this Agreement is intended to or shall impair the lien, conveyance and grant of the Elvira Lake Mortgage, as the same is modified.
4. In all other respects the Mortgage, Assignment of Rents and Leases and Security Agreement, as written, shall remain in full force and effect, and Mortgagor and Lender hereby ratify and confirm the Mortgage, Assignment of Rents and Leases and Security Agreement as herein amended.
5. In all other respects the Accommodation Real Estate Mortgage and Security Agreement, as written, shall remain in full force and effect, and Mortgagor and Lender hereby ratify and confirm the Accommodation Real Estate Mortgage and Security Agreement as herein amended.


**IN WITNESS WHEREOF,** this Agreement has been duly executed by the parties hereto as of the day and year first written above.

**MORTGAGOR:**

  
TERRY M. HABSHEY [SEAL]  
  
AMY H. HABSHEY [SEAL]

**LENDER:**

**FIRST COMMERCIAL BANK, a State Bank**

By:  [SEAL]  
A. Todd Beard  
Its First Vice President

STATE OF ALABAMA           )  
COUNTY OF JEFFERSON       )

I, the undersigned, a notary public in and for said county in said state, hereby certify that TERRY M. HABSHEY and AMY H. HABSHEY, whose names are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of said document, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 30<sup>th</sup> day of September, 1998.

  
NOTARY PUBLIC - Claude M. Moncus  
My Commission Expires: 12/28/99

[NOTARIAL SEAL]

STATE OF ALABAMA           )  
COUNTY OF JEFFERSON       )

I, the undersigned, a notary public in and for said county in said state, hereby certify that A. Todd Beard, whose name as First Vice President of FIRST COMMERCIAL BANK, a State Bank, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of said document, he in his capacity as such officer, executed the same voluntarily for and as the act of said bank.

Given under my hand and seal this 30<sup>th</sup> day of September, 1998.

  
NOTARY PUBLIC - Claude M. Moncus  
My Commission Expires: 12/28/99

[NOTARIAL SEAL]

This Instrument Prepared By:

Claude McCain Moncus, Esq.  
CORLEY, MONCUS & WARD, P.C.  
400 Shades Creek Parkway  
Suite 100  
Birmingham, Alabama 35209  
(205) 879-5959

## EXHIBIT "A"

BEGIN at the Northeast Corner of Section 19, Township 20 South, Range 3 West; thence South  $89^{\circ}46'53''$  West and along the North line of said section a distance of 1311.56 feet; thence South  $00^{\circ}03'09''$  West a distance of 902.50 feet to the center line of the Cahaba River; thence South  $49^{\circ}57'16''$  East along said center line a distance of 313.25 feet; thence South  $47^{\circ}12'27''$  East along said center line a distance of 287.14 feet; thence South  $66^{\circ}33'27''$  East along said center line a distance of 517.42 feet; thence South  $57^{\circ}44'42''$  East along said center line a distance of 193.77 feet; thence South  $52^{\circ}57'57''$  East along said center line a distance of 177.51 feet to a point on the Northwestern Right-of-Way of Shelby County Highway No. 52 (80' ROW); thence N  $39^{\circ}16'52''$  East along said right-of-way and leaving said center line a distance of 261.19 feet to a point on a curve to the right having a central angle of  $36^{\circ}05'00''$  and a radius of 1082.30 feet; thence along said right-of-way and the arc of said curve a distance of 681.60 feet, said arc subtended by a chord which bears N  $57^{\circ}19'22''$  E a distance of 670.40 feet to the end of said curve; thence North  $75^{\circ}21'52''$  East a distance of 598.20 feet; thence North  $15^{\circ}08'46''$  West and leaving said right-of-way a distance of 1026.61 feet; thence North  $89^{\circ}09'33''$  West along the north line of Section 20, Township 20 South, Range 3 West a distance of 408.12 feet to the center line of the Cahaba River; thence South  $18^{\circ}08'42''$  West along said center line a distance of 108.44 feet; thence South  $36^{\circ}38'55''$  West and along said center line a distance of 96.43 feet; thence South  $59^{\circ}02'57''$  West and along said center line a distance of 96.43 feet; thence South  $75^{\circ}38'03''$  West and along said center line a distance of 228.96 feet; thence North  $84^{\circ}39'20''$  West and along said center line a distance of 152.96 feet thence North  $00^{\circ}29'32''$  West leaving said center line and along the west line of said section a distance of 281.25 feet to the POINT OF BEGINNING.

Said parcel contained 69 acres, more or less.

## **EXHIBIT "B"**

The NE 1/4 of the SW 1/4 of Section 18, Township 20 South, Range 3 West, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Inst # 1998-38083

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