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CAHABA LAND & TIMBER CO., INC.
FARRIS LAND COMPANY, INC.
AGREEMENT AND
MODIFICATION OF MORTGAGE
RECORDED SHELBY COUNTY, ALABAMA
PROBATE OFFICE BOOK 402, PAGE 515

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EXHIBITS

| | |
|---|---|
| A | FORM OF REAL ESTATE SALES CONTRACT TO BE USED FOR SALE OF LOTS AND TRACTS |
| B | FORM OF PURCHASE MONEY MORTGAGE TO BE USED FOR SALE OF LOTS AND TRACTS |
| C | FORM OF MORTGAGE NOTE TO BE USED FOR SALE OF LOTS AND TRACTS |

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Tom Ritchie
312 No. 23rd St. B'ham 35203

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AGREEMENT

This Agreement made as of this _____ day of June, 1980 by and between Cahaba Land & Timber Co., Inc., hereinafter referred to as "Cahaba", and Farris Land Company, Inc., hereinafter referred to as "Farris".

W I T N E S S E T H:

WHEREAS, Farris has sold to Cahaba 87 acres of real estate located in Shelby County, Alabama which real estate is more particularly described in that certain purchase money Real Estate Mortgage given by Cahaba to Farris to secure payment of the balance due of the purchase price of said real estate and which mortgage is recorded in the Probate Office of Shelby County in Columbiana, Alabama at Book 402 Page 515 (the "Farris Mortgage"), and which real estate is hereinafter referred to as the "Property"; and

WHEREAS, Cahaba has requested that Farris consent to the recording of a subdivision map entitled "Country Estates" presented by Cahaba and prepared by Joe Conn & Associates, Engineers, dividing 70.53 of the acres of the Property into 12 lots (the "Lots") and leaving one five acre tract on the South side of the Property and one 6.95 acre tract on the Northwest side of the Property (the "Tracts"); and

WHEREAS, Farris has agreed to consent to such subdivision of the Property provided that Cahaba first enters into this Agreement which provides for the conditions and procedures to be followed in connection with the sale of the Lots and the two Tracts not included in the Subdivision and for the payment and release from the Farris Mortgage of each of the said Lots and two Tracts, and

WHEREAS, Farris and Cahaba have agreed that the terms of the Farris Mortgage shall be modified and amended as hereinafter provided.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, receipt whereof is hereby acknowledged by the parties, the parties hereto do hereby agree as follows:

1. Restrictions on Sale of Lots and Tracts by Cahaba. Cahaba agrees that it will only sell the Lots and Tracts subject to the following restrictions, conditions, limitations and procedures and that it will not otherwise sell, transfer, convey, mortgage or encumber any of the Lots or Tracts:

(i) Real Estate Sales Contracts. Cahaba agrees that as to the sale of each of the Lots and Tracts including prospective purchasers of the Lots presently having agreements in effect with Cahaba, it will enter into a Real Estate Sales Contract which includes the essential terms and conditions provided in the Real Estate Sales Contract attached to this Agreement as Exhibit A.

(ii) Warranty Deed. At the closing of each sale Cahaba shall give the purchaser of a Lot and Tract a warranty deed conveying such Lot or Tract which deed shall convey good title subject to no liens or encumbrances

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other than the Farris Mortgage and a Purchase Money Mortgage given in favor of Cahaba to secure the balance due, if any, of the purchase price of the Lot or Tract.

(iii) Purchase Money Mortgages on the Lots and Tracts. Cahaba agrees that it will cause each purchaser of the Lots and Tracts to execute a Purchase Money Mortage in favor of Cahaba securing any balance due of the purchase price of the Lot or Tract such mortgage to be in the form attached hereto as Exhibit B.

(iv) Note for Balance of Purchase Price. Attached hereto is Exhibit C. which shall be the form of the Mortgage Note to be used by Cahaba in connection with evidencing the balance due of the purchase price of a Lot or Tract.

(v) Lots and Tracts Not To Be Sold Except As Entire Parcels. Cahaba agrees that in each instance it will not convey any less real estate than an entire Lot or entire Tract without the prior written consent of Farris.

(vi) No Other Agreements To Be In Effect. Cahaba agrees that it will not enter into any agreement for the sale of the Lots or Tracts other than the foregoing, nor will Cahaba permit the use of any other deed, mortgage,note or other instrument in connection with the sale of a Lot or Tract without the prior written consent of Farris.

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2. Selling Price of Lots and Tracts; Application of Down Payment; Monthly Installment Payments; Escrow Account

Cahaba agrees that it will only sell the Lots and Tracts subject to the following conditions concerning the selling price per

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acre, the down payment, the interest rate, and the monthly installments to be paid by the purchasers of the Lots and Tracts:

(i) Minimum Price Per Acre to be $3,000.00. Cahaba agrees that it will not sell any of the Lots or Tracts at a selling price which shall be less than $3,000.00 per acre.

(ii) Application of the Down Payment Where Cahaba holds Mortgage for Balance of Purchase Price. If Cahaba sells a Lot or Tract at a purchase price in excess of $3,000.00 then Cahaba may retain all of the down payment to the extent that the amount per acre to be financed by the Purchaser of the Lot or Tract exceeds $3,000.00. To the extent that the down payment is sufficiently large in amount so that the Purchaser of the Lot or Tract owes less than $3,000.00 per acre on the amount financed in connection with the purchase of the Lot or Tract, then there shall be paid into escrow for the benefit of assuring future payments on the Farris Mortgage such amount as shall be calculated as follows: The amount per acre when added to the amount financed per acre shall be equal to $3,000.00. For example, if a Lot containing 4 acres is sold for $4,000.00 per acre or a total purchase price of $16,000.00 with a $6,000.00 down payment and $10,000.00 to be financed, then $2,000.00 of the down payment shall be paid into escrow to further secure future payments on the Farris Mortage and $4,000.00 of the down payment shall be retained by Cahaba.

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(iii) <u>Monthly Installments Paid on the Amount Financed With Respect to Each Lot and Tract; Escrow Account.</u>

All amounts to be held in escrow pursuant to the preceeding paragraph and all payments made with respect to the amount financed shall be paid to the Citizens Bank and Trust Company, Alabaster, Alabama, as Escrow Agent for so long as there shall be an outstanding balance on the Farris Mortgage. This Agreement shall serve as the escrow instructions. The Escrow Agent or any successor Escrow Agent shall not have any liability to Farris, to Cahaba, to a purchaser of a Lot or Tract or to any other person with respect to its activities as such Escrow Agent other than a duty of good faith. The Escrow Agent may deduct its fees out of the escrow account, and reimburse itself for all attorneys fees and expenses incurred by it in connection with any claim asserted against it as Escrow Agent and/or the escrow account. All amounts paid into escrow pursuant to the preceeding paragraph (ii) and all amounts prepaid in reduction of the outstanding principal balance of the amount financed on the purchase of a Lot or Tract shall be retained in the Escrow Account as security for payment of the Farris Mortgage. Where a monthly installment paid with respect to an amount financed for the purchase of a Lot or Tract when the balance of the purchase price is scheduled to be paid in 120 months or more, there shall be retained in escrow as security for the Farris Mortgage an amount equal to $27.50 per month

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times the number of acres in the Lot or Tract. If the amount financed is scheduled to be paid in less than 120 months, then the amount that is to be retained as security for the Farris Mortgage shall be an amount equal to $3,000.00 divided by the number of months over which the indebtedness is scheduled to be paid. For example, if a Lot or Tract contains 5 acres and the balance due of the purchase price is scheduled to be paid over a period of 10 years or longer, then the amount to be set aside each month as further security for the Farris Mortgage shall be 5 times $27.50 or $137.50. If the balance of the purchase price of the 5 acre parcel is scheduled to be paid over a 60 month period, then the amount to be set aside each month as further security for the Farris Mortgage shall be $3,000.00 divided by 60 months times 5 acres equals $50.00 an acre times 5 acres or $250.00 per month. All amounts provided herein to be held in escrow as further security for the payment of installments due under the Farris Mortgage shall only be paid out of escrow to Farris when, as and to the extent that the next succeeding such payments are due as set out in paragraph 4 herein. Such amounts held in escrow are to be paid annually to Farris in reduction first of interest and second of principal payments then due, provided that it is understood that no amounts may be due with respect to

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principal in a given year due to Farris having received a prepayment of principal for the release of a Lot or Tract from the Farris Mortgage. (No amounts held in Escrow to secure future payments on the Farris Mortgage shall be treated as having been paid to Farris for the purpose of determining the number of acres that are due to be released from the Farris Mortgage).

(iv) Parcels sold for Cash. If a Lot or Tract is sold under the terms that all of the purchase price is to be paid at closing, $2,687.00 per acre, or the pro rata part thereof, in the Lot or Tract shall be applied in prepayment of the Farris Mortgage, and the entire Lot or Tract shall be released from the Farris Mortgage, and the $2,687.00 shall be paid directly to Farris and applied as provided in the Farris Mortgage.

(v) Interest Rate. Cahaba shall require that Purchasers of a Lot or Tract agree to pay interest at the rate of not less than twelve percent per annum on the outstanding principal balance.

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3. Farris To Release from Farris Mortgage Each Lot or Tract as Follows.

(i) Entire Amount Paid at Closing. Farris agrees that it will release from the Farris Mortgage any Lot or Tract upon the payment to it of an amount equal to $2,687.00 times the number of acres in the Lot or Tract.

(ii) Payment of Balance Due of Purchase Price of Lot or Tract. Farris agrees that it will release from the Farris Mortgage any Lot or Tract whereby the Purchaser thereof has

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paid into the Escrow Account all amounts owed on the balance of the purchase price of the Lot or Tract provided only that the purchase price of the Lot or Tract was $3,000.00 per acre or greater and that there was paid into the Escrow Account all of the $3,000.00 per acre purchase price financed plus interest thereon at a rate of not less than 12% per annum on the unpaid balance.

4. Farris Mortgage and Farris Indebtedness. Cahaba agrees that it will pay to Farris the $162,000 balance due Farris with respect to the purchase by Cahaba from Farris of the Property as follows: $21,750 on the 1st day of July, 1980 and $140,250.00 payable at the rate of 1/10 of the principal amount ($14,025.00) on each May 1 for the next succeeding years beginning 1981 together with interest at the rate of 10% on the unpaid principal balance being payable on the same date. Cahaba also agrees that it will prepay to Farris at the rate of $2,687.00 per acre for all Lots and Tracts wherein the Purchaser from Cahaba has paid in full the purchase price to be paid by such Purchaser for such Lot. Farris agrees that it will release from the Farris Mortgage any Lot or Tract with respect to which it has been paid a prepayment on the Farris Mortgage in an amount equal to $2,687.00 per acre for each acre in the Lot or Tract.

All payments shall first be applied to interest accrued to date and second to the reduction of principal. It is understood that such prepayment of principal shall be applied in reduction of the next principal payment otherwise due as provided in the Farris Mortgage.

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[redacted] [redacted] [redacted]

It is understood and agreed that Farris will release from the Farris Mortgage acres selected by Cahaba after principal payments made by Cahaba on the Farris Mortgage at the rate of $2,687.00 per acre provided that Farris will not release less than an entire Lot or Tract at anytime.

The Farris Mortgage as herein amended is hereby ratified and confirmed.

5. <u>Escrow Payments to Cahaba and Termination of Escrow Account; Default By Cahaba in paying FARRIS MORTGAGE</u>

All amounts paid into the Escrow Account not required to be retained as security for the payment of the Farris Mortgage (less the Escrow Agent's fees and expenses) shall be paid monthly to Cahaba by the Escrow Agent. After the Farris Mortgage has been paid in full, the Escrow Account shall be terminated and all amounts remaining in the Escrow Account shall be paid to Cahaba and no further payments shall be paid into the Escrow Account by purchasers of the Lots and Tracts or otherwise.

In the event that Farris shall foreclose on the Farris Mortgage following default in the payment of the indebtedness secured thereby, the payments made into the Escrow Account thereafter and all other payments made with respect to the amount financed on the sale of a Lot or Tract shall be paid to the purchaser of the Farris Mortgage interest at the foreclosure sale.

Following any such foreclosure of the Farris Mortgage, the purchasers of the Lots and Tracts shall be entitled to continue

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their payments on their purchase money mortgages by paying all of their payments to the Escrow Agent who will forward such amounts to Farris of his assigns. If the purchasers of a Lot or Tract does so make all of the payments provided to be made by his purchase money mortgage, he shall be entitled to a release from the Farris Mortgage of the Lot or Tract he purchased notwithstanding the default and foreclosure of the Farris Mortgage.

6. Benefit. This Agreement is for the benefit of Purchasers of the Lots and Tracts, the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective as of the date first above written.

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CAHABA LAND & TIMBER CO., INC.

By ____________________
Its President

ATTEST:

____________________

FARRIS LAND COMPANY, INC.

By ____________________
Its President

ATTEST:

____________________

STATE OF ALABAMA )
)
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that William M. Harrington, Jr. whose name as President of Cahaba Land & Timber Co., Inc. a corporation, is signed to the foregoing Agreement, and who is known to me, acknowledged before me, on this day that, being informed of the contents of such Agreement, he, 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 26 day of June, 1980.

Notary Public

My Commission Expires: Feb 2, 1982

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STATE OF ALABAMA )
)
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that W.M. Farris whose name as President of Farris Land Company, Inc. a corporation, is signed to the foregoing Agreement, and who is known to me, acknowledged before me, on this day that, being informed of the contents of such Agreement, he, 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 June, 1980.

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Notary Public

My Commission Expires: _________

Form approved by
Birmingham Area Board of Realtors, Inc., July 1977

This Form Furnished by
TITLE GUARANTEE DIVISION
Lawyers Title Insurance Corporation

# REAL ESTATE SALES CONTRACT

1-1-18 Rev. 11-77

Birmingham ________________ 19____

The Undersigned Purchaser(s) ____________________________________________ hereby agrees to purchase and

The Undersigned Seller(s) ____________________________________________ hereby agrees to sell

the following described Real Estate, together with all improvements, shrubbery, plantings, fixtures, and appurtenances, situated in ____________ County, Alabama, on the terms stated below:

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The Purchase Price shall be $______________________, payable as follows:

Earnest Money, receipt of which is hereby acknowledged by the agent ______________ $

Cash on closing this sale ______________________________ $

The Real Estate is now subject to a first mortgage given by Seller to Farris Land Company, Inc. and recorded in Book 402, Page 515 Probate Office of Shelby County, Alabama as amended by Agreement recorded in Book ______ page ________. Seller agrees to have the Real Estate released from the Farris Land Company Mortgage when Purchaser has paid the above purchase price in full.

All payments on the Purchaser's Real Estate Mortgage Note are to be paid to "Citizens Bank & Trust Company Escrow Agent," Alabaster, Alabama until the Farris Land Company, Inc. mortgage is paid in full.

Any additional provisions set forth on the reverse side hereof, initialed by all parties, are hereby made a part of this contract.

~~The undersigned seller agrees to furnish the purchaser a standard form title insurance policy issued by a company qualified to insure titles in Alabama, in the amount of the purchase price, insuring purchaser against loss on account of any defect or encumberance in the title, unless herein excepted, otherwise, the earnest money shall be refunded. In the event both owner's and mortgagee's title policies are obtained at the time of closing, the total expense of procuring the two policies will be divided equally between the seller and the purchaser.~~

Said property is sold and is to be conveyed subject to any mineral and mining rights not owned by the undersigned Seller and subject to present zoning classification ______________, and ______________ being located in a flood plain.

The taxes, insurance and accrued interest on the mortgages, if any, are to be prorated between the Seller and Purchaser as of the date of delivery of the deed, and any existing advance escrow deposits shall be credited to the Seller. The Seller will keep in force sufficient hazard insurance on the property, to protect all interests until this sale is closed and the deed delivered.

The sale shall be closed and the deed delivered on or before ______________________, except that the Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to said property. Possession is to be given on delivery of deed, if the property is then vacant; otherwise possession shall be delivered: ______________ days after the deed. The Seller hereby authorizes ______________________________ to hold earnest money in trust for the Seller pending the fulfillment of this contract.

In the event the Purchaser fails to carry out and perform the terms of this agreement the earnest money, as shown herein shall be forfeited as liquidated damages at the option of the Seller, provided that the Seller agrees to the cancellation of this contract, and said earnest money so forfeited shall be divided equally between the Seller and his Agent.

THE COMMISSION PAYABLE TO THE AGENT IN THIS SALE IS NOT SET BY THE BIRMINGHAM AREA BOARD OF REALTORS, INC., BUT IS NEGOTIABLE BETWEEN THE SELLER AND THE AGENT, and in this contract, the seller agrees to pay ______________________________ as their agents, a sales commission in the amount, ______________________________ for negotiating this sale.

The Seller agrees to convey said property to the Purchaser by ______________________ warranty deed free of all encumbrances, except as hereinabove set out and Seller and purchaser agree that any encumbrances not herein excepted or assumed may be cleared at time of closing from sales proceeds.

Unless excepted herein, Seller warrants that he has not received any notification from any governmental agency of any pending public improvements, or requiring any repairs, replacements, alterations to said premises that have not been satisfactorily made, which warranty shall survive the delivery of the above deed.

It shall be the responsibility of the purchaser to satisfy himself at purchasers expense, that any warranties or repairs called for in this contract are complied with prior to closing. The agent makes no representation or warranty of any kind as to the condition of the workmanship in the dwelling and improvements subject of this contract.

*This contract states the entire agreement between the parties and merges in this agreement all statements, representations, and covenants heretofore made, any other agreements not incorporated herein are void and of no force and effect.*

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Witness to Purchaser's Signature: ______________ Purchaser ______________ (SEAL)

______________ Purchaser ______________ (SEAL)

Witness to Seller's Signature ______________ Seller ______________ (SEAL)

______________ Seller ______________ (SEAL)

Seller ______________ (SEAL)

Seller ______________ (SEAL)

Receipt is hereby acknowledge of the earnest money ☐ CASH ☐ CHECK as herein above set forth

By [redacted] [redacted] [redacted]

This instrument was prepared by [redacted] [redacted] [redacted]

(Name)

(Address)

Form 1-1-22 Rev. 1-66

MORTGAGE—LAWYERS TITLE INSURANCE CORPORATION, Birmingham, Alabama

STATE OF ALABAMA
COUNTY } KNOW ALL MEN BY THESE PRESENTS: That Whereas,

(hereinafter called "Mortgagors", whether one or more) are justly indebted, to Cahaba Land & Timber Company, Inc.

(hereinafter called "Mortgagee", whether one or more), in the sum of Dollars ($ ), evidenced by

All payments on this Note are to be made payable to "Citizens Bank & Trust Company Escrow Agent," until written notice from said Bank.

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And Whereas, Mortgagors agreed, in incurring said indebtedness, that this mortgage should be given to secure the prompt payment thereof.

NOW THEREFORE, in consideration of the premises, said Mortgagors,

and all others executing this mortgage, do hereby grant, bargain, sell and convey unto the Mortgagee the following described real estate, situated in County, State of Alabama, to-wit:

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Said property is warranted free from all incumbrances and against any adverse claims, except as stated above.

Exhibit C

Form 1-1-23

Lawyers Title Insurance Corporation

# REAL ESTATE MORTGAGE NOTE

$.................................... Birmingham, Alabama,....................................

The undersigned, for value received, promise to pay to the order of Cahaba Land & Timber Company, Inc.

the sum of.................................................................................................Dollars,

together with interest upon the unpaid portion thereof from date at the rate of........................per cent per annum, in monthly

installments of ..............................................................................................Dollars,

payable on the..................................day of each month after date, commencing ........................................

until said sum is paid in full, payable at Citizens Bank & Trust Company, P.O.Box 966, Alabaster Alabama, or at such other place or places as the owner or holder hereof may from time to time designate. All payments shall be applied first to interest on the unpaid balance of principal, and the balance to principal. Each of said installments shall bear interest at 8% per annum after maturity.

This note is secured by mortgage on real estate, executed to the payee herein. In the event of default under the terms of said mortgage, or in the event any installment shall remain unpaid for as much as ten days after the same become due, the holder hereof shall have the right and option to declare the entire indebtedness secured hereby to be at once due and payable.

Each maker and endorser hereby waives all right of exemption under the Constitution and Laws of Alabama, and agrees to pay the cost of collection, including a reasonable attorney's fee, if this obligation is not paid at maturity.

Demand, protest and notice of protest, and all requirements necessary to hold them liable, are hereby waived by each and every maker and endorser of this note.

All payments on this Note are to be made payable to "Citizens Bank & Trust Company Escrow Agent," until written notice from said Bank.

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This note is given, executed and delivered under the seal of the undersigned.

..........................................................................(L. S.)

..........................................................................(L. S.)

..........................................................................(L. S.)

..........................................................................(L. S.)

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1980 JUN 26 AM 11:09
JUDGE OF PROBATE

Rec. 22.50
Ind. 1.00
23.50

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