

STATE OF ALABAMA )  
SHELBY COUNTY )

This PURCHASE MONEY MORTGAGE made and entered into on this 25th day of September, 1981, by and between Percy W. Brower, Jr. (Mortgagor) and The Harbert-Equitable Joint Venture under Joint Venture Agreement dated January 30, 1974 (Mortgagee),

WITNESSETH:

That, WHEREAS Mortgagor has this day become justly indebted to Mortgagee in the principal sum of One Million, Four Hundred Ninety-Nine Thousand Six Hundred Forty-Five Dollars (\$1,499,654) for the purchase price of the hereinafter described real estate, as evidenced by a mortgage note of even date herewith made by Mortgagor (the Note) and being payable in installments of \$384,000 and \$422,400 on or before one year and one day from the date hereof and two years from the date hereof, respectively, and the balance of said principal sum being payable on or before December 15, 1983; and

WHEREAS, Mortgagor desires to secure the prompt payment of the Note,

NOW, THEREFORE, in consideration of the premises and to secure payment of the Note, Mortgagor has bargained and sold, and does hereby grant, bargain, sell and convey unto Mortgagee, its successors and assigns, the real estate lying and being in Shelby County, Alabama, and more particularly described in Exhibit A attached hereto and made a part hereof.

TO HAVE AND TO HOLD unto Mortgagee, its successors and assigns, forever, subject to all easements and restrictions of record.

This Mortgage is made and accepted on the understanding that

THE HARBERT-EQUITABLE JOINT VENTURE  
P.O. Box 1279  
BIRMINGHAM, AL 35201

the following covenants and agreements shall continue in effect so long as the Note remains unpaid.

1. Mortgagor shall pay all taxes, assessments or other charges which may be levied upon or accrue against said real estate, promptly as and when so levied or assessed. Should Mortgagor fail to pay any such taxes, assessments or other charges, Mortgagee may, but shall not be obligated to, pay the same, and the amount so paid shall thereupon become immediately due and shall be secured by the lien of this Mortgage.

2. Mortgagor shall commit and permit no waste on said real estate.

3. If Mortgagor pays the Note and reimburses Mortgagee for any amounts Mortgagee may have expended for taxes or assessments or other charges, or if all of the real estate described herein shall be released pursuant to the express terms hereof, then this Mortgage shall become null and void, but should default be made in the payment of any sum expended by Mortgagee for taxes, assessments or other charges, or should Mortgagor fail to pay the indebtedness evidenced by the note or any part thereof, as and when the same becomes due, or should Mortgagor fail to observe the covenants and agreements herein set forth, or should the interest of Mortgagee in said real estate become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the indebtedness hereby secured, or should Mortgagor become a bankrupt, then in any one of such events, the whole of said indebtedness evidenced by the Note shall at once become due and payable at the option of Mortgagee, and this Mortgage be subject to foreclosure as now provided in the case of past due mortgages, and Mortgagee shall be authorized to take possession of real estate hereby, and with or without first taking possession, after giving twenty-one (21) days notice by publication once a week for three successive weeks of the time, place and terms of sale in a newspaper published in said county and state, sell real estate in lots or in parcels or en masse as

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Mortgagee shall deem best, in front of the courthouse door of said county, at public outcry, to the highest bidder for cash, and apply the proceeds of such 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 may be necessary to expend in paying taxes, assessments or other charges, 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, and fourth the balance if any to be paid to the Mortgagor. Mortgagee may bid at any such sale and purchase said real estate, if the highest bidder therefor.

4. Upon the payment of the first installment due on the Note in the amount of \$384,000, Mortgagee shall release from this Mortgage a minimum of eight acres of said real estate, and upon the payment of the second installment due on the Note in the amount of \$422,400, Mortgagee shall release from this Mortgage an additional eight acres of said real estate. In addition, upon any prepayments on the Note (in addition to the installments referred to above), Mortgagee shall release from this Mortgagor additional portions of said real estate on the basis of one acre for each \$48,000 prepaid on or before one year and one day from the date hereof and one acre for each \$52,800 prepaid more than one year and one day but on or before two years from the date hereof. The real estate to be released upon the payment of the first such installment or prepayment shall be immediately adjacent to other real estate purchased by Mortgagor from Mortgagee contemporaneously herewith, and the real estate to be released upon the payment of the second such installment or any subsequent prepayments shall be immediately adjacent to said other real estate or the real estate theretofore released. The boundaries of the real estate to be released shall be agreed upon by Mortgagor and Mortgagee. Upon the payment to Mortgagee of \$10,000 at least thirty (30) days in advance of the due date of any installment, Mortgagee shall promptly furnish Mortgagor a boundary line survey of the acreage which is to be released upon the payment of the balance of such installment made by a reputable land engineer approved by Mortgagor. Any slight variation in the acreage to be released as determined by such survey shall be adjusted at the approximate per square foot rate based on the release price.

5. In order to prevent the landlocking of any part of the real estate described herein subsequent to the release of portions thereof as herein provided, Mortgagor, his successors or assigns, shall provide for access to the remaining portions of said real estate by planning, constructing in accordance with municipal road standards, and dedicating for public use, reasonable and necessary roads or easements and rights-of-way through those portions of said real estate which have been released from this Mortgage.

6. Mortgagor shall have no personal liability under the terms of the Note or this Mortgage, and Mortgagee shall look solely to the real estate subject to this Mortgage for all sums due or occasioned by Mortgagor's failure to perform under the terms of the Note or this Mortgage. In the event of a foreclosure of this Mortgage, Mortgagee agrees that it will not seek or obtain a deficiency judgment against Mortgagor. Nothing contained herein shall be, or be deemed to be, a release or impairment of the indebtedness evidenced by the Note or of the covenants and agreements hereof or of the lien or title hereby conveyed as security for such indebtedness and covenants and agreements hereof, or shall preclude Mortgagee from foreclosing this Mortgage or exercising the rights set forth herein in the event of a failure to pay said indebtedness or other default hereunder or under the Note, except as set forth in this paragraph.

7. All covenants and agreements herein contained shall bind and inure to the benefit of Mortgagor and Mortgagee and their respective heirs, personal representatives, successors and assigns, provided, however, that Mortgagor shall not sell or further encumber the real estate subject to this Mortgage without the prior written consent of Mortgagee except that Mortgagor may sell said real estate or any part thereof to Harbar Homes, Inc.

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8. No failure of Mortgagee to exercise any option herein given to declare the maturity of the indebtedness hereby secured upon default by Mortgagor shall be taken as a waiver of such right so long as the default giving rise to such right remains uncured.

IN WITNESS WHEREOF, Mortgagor has hereunto set his hand and seal all as of the day and year first above written.

Percy W. Brower, Jr. (SEAL)  
Percy W. Brower, Jr.

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STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Percy W. Brower, Jr., whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 25<sup>th</sup> day of September, 1981.

Karen O. (Bearden) Brubaker  
Notary Public

(NOTARIAL SEAL)

*This instrument was prepared by J. Robert Fleenor,  
1500 Birm. Navy Building, Birmingham, Ala*

EXHIBIT A

Part of the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 25 and the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 26, all in Township 19 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows: Beginning at the Northwest corner of the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 25, Township 19 South, Range 3 West run in an Easterly direction along the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section for a distance of 630.04 feet; thence turn an angle to the right of 90 deg. and run in a Southerly direction for a distance of 283.43 feet; thence turn an angle to the left of 90 deg. and run in an Easterly direction for a distance of 228.61 feet; thence turn an angle to the right of 51 deg. 10' 41" and run in a Southeasterly direction for a distance of 124.77 feet; thence turn an angle to the left of 90 deg. and run in a Northeasterly direction for a distance of 70.82 feet; thence turn an angle to the right of 90 deg. and run in a Southeasterly direction for a distance of 70.00 feet; thence turn an angle to the left of 90 deg. and run in a Northeasterly direction for a distance of 45.20 feet to a point of curve said curve being concave in a Northwesterly direction and having the following characteristics: a central angle of 31 deg. 15' 49", a radius of 385.00 feet; thence turn an angle to the left and run along the arc of said curve for a distance of 210.08 feet to the end of said curve; thence tangent to the end of said curve, run in a Northeasterly direction for a distance of 5.22 feet to a point of a second curve, said second curve being concave in a Southeasterly direction and having the following characteristics: a central angle of 13 deg. 16' 47" and a radius of 365.00 feet; thence turn an angle to the right and run along the arc of said curve for a distance of 84.60 feet to the end of said curve; thence tangent to the end of said curve run in a Northeasterly direction for a distance of 9.90 feet to a point on the Southwesterly right-of-way line of Old Montgomery Highway; thence turn an angle to the right of 160 deg. 16' 18" and leaving said right-of-way line run in a Southwesterly direction for a distance of 396.13 feet; thence turn an angle to the right of 38 deg. 21' and run in a Southwesterly direction for a distance of 280.0 feet; thence turn an angle to the right of 28 deg. 55' and run in a Southwesterly direction for a distance of 78.20 feet; thence turn an angle to the right of 10 deg. 34' 28" and run in a Westerly direction for a distance of 434.93 feet; thence turn an angle to the right of 18 deg. 02' 05" and run in a Northwesterly direction for a distance of 211.94 feet; thence turn an angle to the left of 34 deg. 45' 03" and run in a Southwesterly direction for a distance of 248.34 feet; thence turn an angle to the left of 21 deg. 20' 03" and run in a Southwesterly direction for a distance of 242.02 feet; thence turn an angle to the left of 12 deg. 42' 23" and run in a Southwesterly direction for a distance of 200.0 feet; thence turn an angle to the left of 14 deg. 00' 22" and run in a Southwesterly direction for a distance of 203.91 feet; thence turn an angle to the right of 2 deg. 19' 10" and run in a Southwesterly direction for a distance of 267.68 feet; thence turn an angle to the right of 47 deg. 00' 18" and run in a Southwesterly direction for a distance of 76.84 feet; thence turn an angle to the right of 103 deg. 31' 28" and run in a Northerly direction for a distance of 1,328.74 feet; thence turn an angle to the right of 49 deg. 07' 35" and run in a Northeasterly direction for a distance of 101.97 feet to a point on the North line of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 26, Township 19 South, Range 3 West; thence turn an angle to the right of 41 deg. 41' 22" and run in an Easterly direction along the North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section for a distance of 499.53 feet; thence turn an angle to the right of 90 deg. and leaving said  $\frac{1}{4}$ - $\frac{1}{4}$  Section line run in a Southerly direction for a distance of 50.0 feet; thence turn an angle to the left of 90 deg. and run in an Easterly direction for a distance of 50.0 feet; thence turn an angle to the left of 90 deg. and run in a Northerly direction for a distance of 50.0 feet to a point on the North line of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 26, Township 19 South, Range 3 West; thence turn an angle to the right of 90 deg. and run in an Easterly direction along said North line of  $\frac{1}{4}$ - $\frac{1}{4}$  Section for a distance of 34.0 feet, more or less, to the point of beginning.

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*James A. Shannon, Jr.*  
JUDGE OF PROBATE

Intg. 2249.55-  
Rec. 9.00  
Ind. 1.00  

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2259.55-