

534

State of Alabama

Jefferson County

# MORTGAGE

This indenture is made and entered into this 6th day of October, 19 83 by and between B. J. Harris and Denney Barrow

(hereinafter called "Mortgagor", whether one or more) and National Bank of Commerce of Birmingham, a national banking association (hereinafter called "Mortgagee").

WHEREAS, B. J. Harris and Denney Barrow

is (are) justly indebted to the Mortgagee in the amount of One Hundred Seven Thousand and No/100 dollars (\$ 107,000.00) as evidenced by that certain promissory note dated October 6, 1983 which bears interest as provided therein and which has a final maturity date of October 1, 1988

Now, therefore, in consideration of the premises, and to secure the payment of the debt evidenced by said note or notes and any and all extensions and renewals thereof, or of any part thereof, and all interest payable on all of said debt and on any and all such extensions and renewals (the aggregate amount of such debt and interest thereon, including any extensions and renewals and the interest thereon, is hereinafter collectively called "Debt") and the compliance with all the stipulations herein contained, the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagee the following described real estate situated in Shelby County, Alabama (said real estate being hereinafter called "Real Estate"):

Lot 2, according to the Survey of Amended map of Chase Plantation as recorded in Map Book 8, page 79, in the Probate Office of Shelby County, Alabama.

Lot 21-A, according to the Resurvey of Lots 18, 19, 20, 21, 22, 23 and 24, amended map of Chase Plantation as recorded in Map Book 8, page 111, in the Probate Office of Shelby County, Alabama.

**NATIONAL BANK  
of COMMERCE**

P.O. BOX 10686  
BIRMINGHAM, ALABAMA 35202

Together with all the rights, privileges, tenements, appurtenances and fixtures appertaining to the Real Estate, all of which shall be deemed Real Estate and conveyed by this mortgage.

To have and to hold the Real Estate unto the Mortgagee, its successors and assigns forever. The Mortgagor covenants with the Mortgagee that the Mortgagor is lawfully seized in fee simple of the Real Estate and has a good right to sell and convey the Real Estate as aforesaid; that the Real Estate is free of all encumbrances, except as otherwise set forth herein, and the Mortgagor will warrant and forever defend the title to the Real Estate unto the Mortgagee, against the lawful claims of all persons.

This mortgage is subordinate to that certain mortgage from \_\_\_\_\_

to \_\_\_\_\_  
dated \_\_\_\_\_ and recorded in \_\_\_\_\_ Volume \_\_\_\_\_ at page \_\_\_\_\_ in the Probate Office  
of \_\_\_\_\_ County, Alabama.

The Mortgagor hereby authorizes the holder of a prior mortgage encumbering the Real Estate, if any, to disclose to the Mortgagee the following information: (1) the amount of indebtedness secured by such mortgage; (2) the amount of such indebtedness that is unpaid; (3) whether any amount owed on such indebtedness is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; and (5) any other information regarding such mortgage or the indebtedness secured thereby which the Mortgagee may request from time to time.

If this mortgage is subordinate to a prior mortgage, the Mortgagor expressly agrees that if default should be made in the payment of principal, interest or any other sum payable under the terms and provisions of such prior mortgage, the Mortgagee may, but shall not be obligated to, cure such default, without notice to anyone, by paying whatever amounts may be due under the terms of such prior mortgage so as to put the same in good standing; and any and all payments so made, together with interest thereon at the rate of 8% per annum or the highest rate then permitted by law, whichever shall be less, shall be added to the indebtedness secured by this mortgage. Any such amount paid by Mortgagee, with interest thereon, shall be immediately due and payable; and, if such amount is not paid in full immediately by Mortgagor, then, at the option of the Mortgagee, this mortgage shall be in default and subject to immediate foreclosure in all respects as provided by law and by the provisions hereof.

For the purpose of further securing the payment of the Debt, the Mortgagor agrees to: (1) pay all taxes, assessments, and other liens taking priority over this mortgage (hereinafter jointly called "Liens"), and if default is made in the payment of the Liens, or any part thereof, the Mortgagee, at its option, may pay the same; (2) keep the Real Estate continuously insured, in such manner and with such companies as may be satisfactory to the Mortgagee, against loss by fire, vandalism, malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any, payable to the Mortgagee, as its interest may appear; such insurance to be in an amount sufficient to cover the Debt and the indebtedness secured by any prior mortgage. The original insurance policy and all replacements therefor, shall be delivered to and held by the Mortgagee until the Debt is paid in full. The insurance policy must provide that it may not be cancelled without the insurer giving at least fifteen days prior written notice of such cancellation to the Mortgagee at the following address: National Bank of Commerce of Birmingham, P. O. Box 10686, Birmingham, Alabama 35202, Attention: Loan Department.

Subject to the rights of the holder of the prior mortgage set forth above, if any, the Mortgagor hereby assigns and pledges to the Mortgagee as further security for the payment of the Debt each and every policy of hazard insurance now or hereafter in effect which insures said improvements, or any part thereof, together with all the right, title and interest of the Mortgagor in and to each and every such policy, including but not limited to all of the Mortgagor's right, title and interest in and to any premiums paid on such hazard insurance, including all rights to return premiums. If the Mortgagor fails to keep the Real Estate insured as specified above then, at the election of the Mortgagee and without notice to any person, the Mortgagee may declare the entire Debt due and payable and this mortgage subject to foreclosure, and this mortgage may be foreclosed as hereinafter provided; and, regardless of whether the Mortgagee declares the entire Debt due and payable and this mortgage subject to foreclosure, the Mortgagee may, but shall not be obligated to, insure the Real Estate for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risks of loss, for its own benefit, the proceeds from such insurance (less the cost of collecting same), if collected, to be credited against the Debt, or, at the election of the Mortgagee, such proceeds may be used in repairing or reconstructing the improvements located on the Real Estate. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagor and at once payable, without demand upon or notice to the Mortgagor, and shall be secured by the lien of this mortgage, and shall bear interest from date of payment by the Mortgagee until paid at the rate of 8% per annum or the highest rate then permitted by law, whichever shall be less.

Subject to the rights of the holder of the prior mortgage set forth above, if any, the Mortgagor hereby pledges and assigns to the Mortgagee as further security for the payment of the Debt the following rights, claims, rents, profits, issues and revenues:

1. all rents, profits, issues, and revenues of the Real Estate from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to the Mortgagor, so long as the Mortgagor is not in default hereunder, the right to receive and retain such rents, profits, issues and revenues;
2. all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Real Estate, or any part thereof, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Real Estate, or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets, and all payments made for the voluntary sale of the Real Estate, or any part thereof, in lieu of the exercise of the power of eminent domain. The Mortgagee is hereby authorized on behalf of, and in the name of, the Mortgagor to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. The Mortgagee may apply all such sums so received, or any part thereof, after the payment of all the Mortgagee's expenses, including court costs and attorneys' fees, on the Debt in such manner as the Mortgagee elects, or, at the Mortgagee's option, the entire amount or any part thereof so received may be released or may be used to rebuild, repair or restore any or all of the improvements located on the Real Estate.

The Mortgagor agrees to take good care of the Real Estate and all improvements located thereon and not to commit or permit any waste thereon, and at all times to maintain such improvements in as good condition as they now are, reasonable wear and tear excepted.

Notwithstanding any other provision of this mortgage or the note or notes evidencing the Debt, if the Real Estate, or any part thereof, or any interest therein, is sold, conveyed or transferred, without the Mortgagee's prior written consent, the Mortgagee may, at its option, declare the Debt immediately due and payable; and the Mortgagee may, in its sole discretion, require the payment of a higher rate of interest on the unpaid principal portion of the Debt as a condition to not exercising such option to accelerate the Debt. The Mortgagor agrees that the Mortgagee may, if the Mortgagee desires, accelerate the Debt or escalate the rate of interest payable on the Debt for the purpose of (1) obtaining a higher rate of interest on the Debt or (2) protecting the security of this mortgage.

The Mortgagor agrees that no delay or failure of the Mortgagee to exercise any option to declare the Debt due and payable shall be deemed a waiver of the Mortgagee's right to exercise such option, either as to any past or present default, and it is agreed that no terms or conditions contained in this mortgage may be waived, altered or changed except by a written instrument signed by the Mortgagor and signed on behalf of the Mortgagee by one of its officers.

After default on the part of the Mortgagor, the Mortgagee, upon bill filed or other proper legal proceeding being commenced for the foreclosure of this mortgage, shall be entitled to the appointment by any competent court, without notice to any party, of a receiver for the rents, issues and profits of the Real Estate, with power to lease and control the Real Estate, and with such other powers as may be deemed necessary.

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B. J. Harris  
 Denney Barrow

This instrument prepared by:

Name: JOHN H. HOLCOMB, III

Address: NATIONAL BANK OF COMMERCE

Post Office Box 10686

Birmingham, Alabama 35202

### ACKNOWLEDGEMENT FOR PARTNERSHIP

State of Alabama

County

I, the undersigned authority, a Notary Public, in and for said county in said state, hereby certify that

whose name(s) as (general) (limited) partner(s) of a (n) (general) (limited) partnership, and whose name(s) is (are) signed to the foregoing instrument, and who is (are) known to me, acknowledged before me on this day that, being informed of the contents of said instrument, (he) (she) (they), as such partner(s), and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this day of 19

AFFIX NOTARIAL SEAL

Notary Public

My commission expires:

### ACKNOWLEDGMENT FOR INDIVIDUAL(S)

State of Alabama

Jefferson County

I, the undersigned authority, in and for said county in said state, hereby certify that B. J. Harris and Denney Barrow

whose name(s) is (are) signed to the foregoing instrument, and who is (are) known to me, acknowledged before me on this day that, being informed of the contents of said instrument, (he)(she)(they) executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 6th day of October 19 83

AFFIX NOTARIAL SEAL

Notary Public

My commission expires: MY COMMISSION EXPIRES 9/13/88

STATE OF ALA. SHELLEY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED  
1983 OCT 13 AM 11:00  
State of Alabama  
County of Jefferson  
JUDGE OF PROBATE

### ACKNOWLEDGMENT FOR CORPORATION

State of Alabama  
County of Jefferson  
JUDGE OF PROBATE  
Mtg TAX 160.50  
Rec 9.00  
Ind 167.50

I, the undersigned authority, in and for said county in said state, hereby certify that

whose name as of a corporation, 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 said instrument (he)(she), 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 day of 19

AFFIX NOTARIAL SEAL

Notary Public

My commission expires:

RETURN TO: National Bank of Commerce of Birmingham, P.O. Box 10686, Birmingham, Alabama 35202  
Attention: Loan Department