

STATE OF ALABAMA)
SHELBY COUNTY); 1003

908,000⁰⁰

This MORTGAGE made and entered into on this 19 day of Feb., 1985, by and between Harbar Homes, Inc., an Alabama corporation (Mortgagor), and Percy W. Brower, Jr. (Mortgagee),

WITNESSETH:

That, WHEREAS, Mortgagor has this day become justly indebted to Mortgagee in the sum of Nine Hundred Eight Thousand and no/100 Dollars (\$908,000) for the purchase price of the hereinafter described real estate as evidenced by two mortgage notes of even date herewith in the respective amounts of Forty Thousand Dollars (\$40,000) (the Single Payment Note) and Eight Hundred Sixty-Eight Thousand Dollars (\$868,000) (the Installment Note) made by Mortgagor (the Single Payment Note and the Installment Note together, the Notes); and

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

NOW, THEREFORE, in consideration of the premises and to secure the prompt payment of the Notes and the performance of the covenants hereof, Mortgagor has bargained and sold, and does hereby grant, bargain, sell and convey unto Mortgagee, his heirs 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, together with all improvements now or hereafter situated on said real estate and all awards hereafter made for the taking thereof or injury thereto.

TO HAVE AND TO HOLD unto Mortgagee, his heirs and assigns, forever, subject however to all easements and restrictions of record. And Mortgagor covenants with Mortgagee that it is lawfully seized

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BRADLEY, ARANT, KRUSE & WHITE
1400 PARK PLACE TOWER
BIRMINGHAM, ALABAMA 35203

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of the mortgaged premises, that said premises are free from all liens and encumbrances except as aforesaid, that it has a good right to sell and convey the same as aforesaid and that it will warrant and forever defend the title to said premises unto Mortgagee, his heirs and assigns.

This Mortgage is made and accepted on the understanding that the following covenants and agreements shall continue in effect so long as the Note remains unpaid:

1. Mortgagor shall pay the indebtedness hereby secured as and when the same shall become due and payable and shall comply with the terms hereof.

2. Mortgagor shall in accordance with the Land Development Agreement between Mortgagor and Mortgagee of even date herewith subdivide, develop and improve said real estate into not less than (i) sixty-two (62) single family residential lots and (ii) one (1) lot containing 5 acres, more or less, each with access to a dedicated street. Mortgagor shall use its best efforts to sell said lots to residential purchasers. Mortgagor shall comply with all covenants and restrictions and governmental requirements applicable to the subdivision, use, development and improvement of said real estate. Mortgagee shall consent to the dedication of easements, streets and common areas which are necessary or desirable in connection with the subdivision of the premises.

3. Mortgagor shall for the benefit of Mortgagee constantly keep in force fire and extended coverage insurance with such companies as may be satisfactory to Mortgagee for not less than the full insurable value of the mortgaged premises, with loss payable to Mortgagee as his interest may appear, and furnish Mortgagee certificates of all such insurance. Mortgagor shall also constantly keep in force such other insurance as prudent owners engaged in similar activities keep in force and shall cause Mortgagee to be named as an additional insured of such insurance.

4. 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.

5. Mortgagor shall keep the mortgaged premises in good condition and repair and shall commit and permit no waste thereon or thereto. Mortgagor shall promptly pay and discharge any lien filed against said premises by mechanics or materialmen.

6. If Mortgagor fails to insure the mortgaged property as hereinabove provided, or to pay all or any part of the taxes, assessments, or other charges which may be levied upon or accrue against said property, or to pay all liens, mortgages, debts or other charges which may be or become liens superior to the lien of this mortgage, Mortgagee may insure said property or pay such taxes, assessments, mortgages, debts, liens or other charges, and any money which mortgagee shall so pay or become obligated to pay shall constitute a debt to Mortgagee additional to the indebtedness hereby secured, and shall be secured by this mortgage and at the option of Mortgagee shall be immediately due and payable.

7. If Mortgagor pays the indebtedness evidenced by the Notes and reimburses Mortgagee for any amounts Mortgagee may have expended for taxes or assessments or other charges, liens or debts, 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, liens or debts, or should Mortgagor fail to pay the indebtedness evidenced by the Notes 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 Notes 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 said 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 said real estate in lots or in parcels or en masse as 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, liens or debts, 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 Mortgagor. Mortgagee may bid at any such sale and purchase said real estate, if the highest bidder therefor.

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8. Upon the payment of Single Payment Note, Mortgagee shall release from this Mortgage the one lot containing 5.67 acres, more or less. Upon each prepayment of the sum of \$13,000 on the Installment Note from the date hereof through April 30, 1986, Mortgagee shall release from this Mortgage one residential lot selected by Mortgagor; upon each prepayment of the sum of \$15,500 on the Installment Note from May 1, 1986 through April 30, 1987, Mortgagee shall release from this Mortgage one residential lot selected by Mortgagor; and if the maturity of the Installment Note is extended as therein provided, upon each prepayment of the sum of \$17,000 after May 1, 1987, Mortgagee shall release from this Mortgage one residential lot selected by Mortgagor.

9. Mortgagor shall have no personal liability under the terms of the Notes or this Mortgage, and Mortgagee shall look solely to the real estate subject to this Mortgage for all sums due or occasioned by

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Mortgagor's failure to perform under the terms of the Notes 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 Notes 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 Notes, except as set forth in this paragraph.

10. It is expressly agreed that any indebtedness at any time secured hereby may be extended, rearranged, or renewed, and that any part of the security herein described may be waived or released without in anywise altering, varying or diminishing the force, effect or lien of this mortgage.

11. 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 encumber the real estate subject to this Mortgage without the prior written consent of Mortgagee except as contemplated by the terms of this Mortgage.

12. 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.

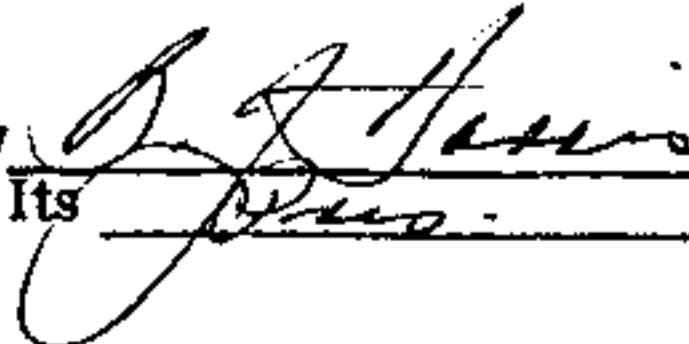
IN WITNESS WHEREOF, Mortgagor has caused this mortgage to be executed for and in its name and its seal to be hereunto affixed as of the day and year first above written.

HARBAR HOMES, INC.

[SEAL]

By

Its



STATE OF ALABAMA)
 ;
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that B. J. Harris, whose name as President of Harbar Homes, Inc., 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 the instrument, 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 19th day of Feb., 1985.

Cynthia D. Duckworth
Notary Public

(NOTARIAL SEAL)

This instrument was prepared by:

J. Robert Fleenor
Bradley, Arant, Rose & White
1400 Park Place Tower
Birmingham, Alabama 35203

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EXHIBIT A

Part of the NE-1/4 of Section 14, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Beginning at the northeast corner of said Section 14, run in a southerly direction along the east line of said section for a distance of 1,998.47 feet; thence turn an angle to the right of 92° 01' 23" and run in a westerly direction for a distance of 244.39 feet; thence turn an angle to the right of 73° 06' and run in a northwesterly direction for a distance of 354.00 feet; thence turn an angle to the left of 21° 51' 06" and run in a northwesterly direction for a distance of 351.00 feet; thence turn an angle to the left of 10° 12' 38" and run in a northwesterly direction for a distance of 321.60 feet; thence turn an angle to the right of 17° 34' 08" and run in a northwesterly direction for a distance of 102.18 feet; thence turn an angle to the left of 26° 26' and run in a northwesterly direction for a distance of 103.32 feet; thence turn an angle to the right of 23° 23' 03" and run in a northwesterly direction for a distance of 663.83 feet; thence turn an angle to the left of 29° 48' 33" and run in a northwesterly direction for a distance of 107.11 feet; thence turn an angle to the left of 69° 00' and run in a southwesterly direction for a distance of 261.28 feet; thence turn an angle to the right of 90° and run in a northwesterly direction for a distance of 45.00 feet; thence turn an angle to the left of 90° and run in a southwesterly direction for a distance of 60.00 feet; thence turn an angle to the right of 7° 00' 40" and run in a southwesterly direction for a distance of 259.13 feet; thence turn an angle to the left of 5° 38' 18" and run in a southwesterly direction for a distance of 134.00 feet; thence turn an angle to the right of 39° 00' and run in a southwesterly direction for a distance of 172.00 feet; thence turn an angle to the right of 105° 20' and run in a northerly direction for a distance of 976.38 feet to a point on the north line of said section; thence turn an angle to the right of 91° 18' 58" and run in an easterly direction along the north line of said section for a distance of 2,048.55 feet, more or less, to the point of beginning, containing 2,225,344 square feet or 51.087 acres, more or less.

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1995 FEB 22 AM 8:49

Thomas A. Saunders, Jr.
JUDGE OF PROBATE

RECORDING FEES

Mortgage Tax	\$ 1367.00
Deed Tax	_____
Mineral Tax	_____
Recording Fee	17.50
Index Fee	1.00
TOTAL	\$ 1380.50