

THIRD AMENDMENT TO NOTE AND MORTGAGE

This instrument is entered into on this the 15 day of February, 1994 by and among Saddle Creek Estates, Inc. (hereinafter "Saddle Creek") and Lois Hurst (hereinafter "Hurst").

W I T N E S S E T H:

Hurst is the holder of that certain Promissory Note (the "Note") dated the 2nd day of April, 1987, in the original principal amount of \$887,750.00, executed by Mike Summers, unmarried, and secured by that certain real property mortgage (the "Mortgage") recorded in Real Volume 3127, page 896 in the Office of the Judge of Probate of Jefferson County, Alabama, and Real Volume 124, page 595 in the Office of the Judge of Probate of Shelby County, Alabama. The Note and Mortgage have been amended by that certain instrument (the "First Amendment") recorded in Real Volume 4270, page 31, in the Office of the Judge of Probate of Jefferson County, Alabama, and as Document Number 1992-8819 in the Office of the Judge of Probate of Shelby County, Alabama, and also by that certain instrument (the "Second Amendment") recorded in Real Volume 4482, page 615 in the Office of the Judge of Probate of Jefferson County, Alabama, and as Document Number 1993-4642 in the Office of the Judge of Probate of Shelby County, Alabama. The Note, as amended by letter dated April 1, 1991, and the Mortgage, as both have been amended by the First Amendment and the Second Amendment, are hereinafter referred to collectively as the "Indebtedness".

Saddle Creek has entered into a contract (the "Contract") to sell the real property (the "Property") which is subject to the Mortgage to Charles G. Kessler, Jr. ("Kessler") and pursuant to which Kessler shall develop the portions of the Property purchased by Kessler pursuant to the Contract. During the course of the development of the Property, Kessler has determined that it will be necessary to commit a portion of the Property to a surface water drainage and detention easement (the "Drainage Easement") to handle the flow of surface waters across the Property. The original development plan for the Property, together with other Real Property previously conveyed by Hurst or otherwise released from the Mortgage, included a total of seventy-seven (77) single family residential lots and a separate acreage parcel. The Drainage Easement includes approximately fifteen (15) of said residential lots. Therefore, upon the creation of the Drainage Easement and its designation for drainage and surface water detention purposes, the total number of residential lots to be created shall be reduced from seventy-seven (77) lots to sixty-two (62) lots.

Pursuant to the provisions of the Contract, Kessler is not obligated to continue with the development of the Property and Kessler has determined to exercise his right not to continue with the development of the Property and the purchase of additional lots within the Property unless the Real Property included within the Drainage Easement is conveyed to him by Saddle Creek and released from the Mortgage by Hurst.

The Indebtedness is "non-recourse" and Saddle Creek has no liability for the payment of any portion of the outstanding balance thereunder. Kessler is not obligated to continue the purchase of portions of the Property pursuant to the Contract. To give incentive

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to Kessler to continue with the development of additional portions of the Property and to bear the expense associated with the creation of the surface water drainage detention area within the Drainage Easement, Hurst has agreed to release from the Mortgage the portion of the Property within the Drainage Easement and to amend the Indebtedness with respect to the gross amounts to be paid to Hurst by Saddle Creek thereunder.

NOW, THEREFORE, in consideration of the foregoing recitals, the covenants and conditions hereinafter contained, Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned, the undersigned do hereby amend the provisions of the Indebtedness and agree as follows:

1. Hurst agrees to release the portion of the Property included within the Drainage Easement without the payment of any amount and without the reduction of the outstanding principal balance owing under the Indebtedness.

2. The balance owing under the Indebtedness is hereby reduced by the sum of Ninety Thousand Dollars (\$90,000.00), said sum representing Six Thousand Dollars (\$6,000.00) for each of the fifteen (15) lots that would have been created within the portion of the Property included in the Drainage Easement. After said reduction of Ninety Thousand Dollars (\$90,000.00), the balance of the Indebtedness, as of the date hereof, is agreed to be the sum of Four Hundred Ninety Thousand Dollars (\$490,000.00).

3. The date of "the first day of April, 1996", has been set forth in the First Amendment, in paragraph 2c, and in the Second Amendment, in paragraph 1c, and has been given as the date upon which the entire outstanding balance owing under the Indebtedness is to be paid in full. The parties acknowledge that this date has been in error and that same should have been the first day of April, 1997. The Indebtedness is hereby amended to correct said error by substituting in the place and stead of "the first day of April, 1996", where same appears as aforesaid, the correct date of "the first day of April, 1997".

4. Except as amended by the provisions of this instrument, the terms and provisions of the Indebtedness shall remain unchanged and in full force and effect.

5. In the event of any conflict between the terms and provisions of this instrument and the terms and provisions of the Indebtedness, the terms and provisions of this instrument shall prevail.

6. Both Saddle Creek and Hurst acknowledge to the other that they have each received or had the opportunity to receive advice and guidance from appropriate counsel in the negotiation and execution of this instrument and with respect to the terms and provisions set forth herein.

7. The terms and provisions of this instrument shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, successors and assigns.

Executed by each of the undersigned, under seal, effective the same date as first above written.

Lois Hurst
Lois Hurst

SADDLE CREEK ESTATES, INC.

By: John R. Saunders
Its: President

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned, hereby certify that Lois Hurst, 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, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 15 day of February, 1994.

John R. Saunders
Notary Public

[NOTARIAL SEAL]

My commission expires: 7-25-97

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that John R. Saunders, whose name as President of Saddle Creek Estates, 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 seal of office this 15 day of February, 1994.

Harold M. Anderson
Notary Public

[NOTARIAL SEAL]

My commission expires: 7-25-97

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