

STATE OF ALABAMA

SHELBY COUNTY

MORTGAGE

THIS MORTGAGE is made and entered into this 15th day of November, 1996, by and between **SHADY OAKS, INC.**, an Alabama Corporation, whose address is 1002 Pierce Street, Albertville, Alabama 35950

(hereinafter referred to as "Mortgagor") and **THE ALABAMA SHERIFF'S BOYS AND GIRLS RANCHES, INC.**, whose address is 2595 Bell Road Montgomery, Alabama 36117,

(hereinafter referred to as "Mortgagee").

WITNESSETH, that in consideration of the premises and in order to secure the payment of both the principal and interest and any other sums payable pursuant to the terms of that certain Promissory Note given by Mortgagor, as maker, to Mortgagee, as payee, of even date herewith, and in the amount of **EIGHTY NINE THOUSAND TWO HUNDRED AND 00/100 DOLLARS (\$89,200.00)** (hereinafter, the "Note"), and the performance and observance of all of the provisions hereof and of said Note, as well as the terms and conditions of this Mortgage, Mortgagor hereby **GRANTS, SELLS, WARRANTS, CONVEYS, ASSIGNS, TRANSFERS, MORTGAGES, AND SETS OVER** unto Mortgagee, all of Mortgagor's estate, right, title and interest in, to and under all that certain real property situated in the County of Shelby, State of Alabama, more particularly described in **Exhibit "A"**, attached hereto and made a part hereof, together with all buildings, structures and improvements of every nature whatsoever, now or hereafter located on said real property. The foregoing real property and is hereinafter referred to as the Mortgaged Property.

Mortgagor hereby covenants with the Mortgagee that Mortgagor has a good and marketable title to an indefeasible fee estate in the real property comprising the Mortgaged Property; that said Mortgaged Property is subject to no lien, charge or encumbrance except such as Mortgagee has agreed to accept in writing and Mortgagor covenants that this Mortgage is and will remain a valid and enforceable mortgage on the Mortgaged Property subject only to the exceptions herein provided. Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form herein done or intended hereafter to be done. Mortgagor will preserve such title and will forever warrant and defend the same to Mortgagee and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever.

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Mortgagor will, at Mortgagor's cost, promptly and fully perform, execute, and acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as shall from time to time be required by Mortgagee in order to preserve the priority of the lien of this Mortgage or to facilitate the performance of the terms hereof.

If Mortgagor shall well and truly pay to Mortgagee Mortgagor's indebtedness, as evidenced by the Note, or any renewal or replacement of the Note, together with all other sums advanced by Mortgagee to or on behalf of Mortgagor pursuant to the Note or this Mortgage, the final maturity date of the Note and this Mortgage, as specified in the Note, and shall perform all other covenants and conditions of the Note, all of the terms of which Note are incorporated herein by reference as though set forth fully herein, and of any renewal, extension or modification thereof and of this Mortgage, then this Mortgage and the estate hereby created shall cease and terminate.

Mortgagor covenants and agrees with Mortgagee as further set out below.

1. Payment. To pay all sums, including interest secured hereby, when due, payable by virtue of the Note and any renewal, extension or modification thereof, to be payable in lawful money of the United States of America at Mortgagee's aforesaid address, or at such other place as Mortgagee may hereafter designate in writing.
2. Taxes.
 - a. To pay when due, and without requiring any notice from Mortgagee, all taxes, water rates, assessments of any type or nature and other charges levied or assessed against the Mortgaged Property or this Mortgage and produce proof thereof upon demand. To immediately pay and discharge any claim, lien or encumbrance against the Mortgaged Property which may be or become superior to this Mortgage and to permit no default or delinquency on any other lien, encumbrance or charge against the Mortgaged Property.

3. Insurance. To keep the Mortgaged Property insured against loss or damage by fire, and all perils insured against by an extended coverage endorsement, said policy or policies of insurance to be in an aggregate amount sufficient to repair or replace the structures located on the Mortgaged Property, and shall contain a standard mortgagee loss payee clause. In the event of any loss, the Mortgagor shall have the option, upon receipt of any insurance proceeds, of applying the proceeds to the repair or replacement of any damaged or destroyed buildings or structures or, at the Mortgagor's option, using the proceeds to retire the debt secured by this Mortgage.

4. Alterations; Modifications. To first obtain the written consent of Mortgagee, such consent to be granted or withheld at the sole discretion of Mortgagee, before

- a. removing or demolishing any building now or hereafter erected on the premises, or
- b. making any repairs which involve the removal of structural parts or the exposure of the interior of such building to the elements.

The Mortgagor may, without seeking the written consent of the Mortgagee, construct any additional structures or may alter, renovate, remodel, retrofit, re-engineer or redesign any structures existing on the Mortgaged Property, as the Mortgagor may reasonably require in order to utilize the Mortgaged Property for use as an assisted living facility, independent living facility, skilled nursing care facility or adult day care facility, as well as for use in administering any ancillary services necessary or desirable to operate any of the foregoing facilities, including but not limited to physician's offices and rehabilitation facilities, as the Mortgagor may deem necessary or appropriate.

5. Waste; Repairs. To maintain the Mortgaged Property in good condition and repair, including, but not limited to, the making of such repairs as Mortgagee may from time to time determine to be necessary for the preservation of the Mortgaged Property and to not commit or permit any waste thereof. Mortgagee shall have the right to inspect the Mortgaged Property on reasonable notice to Mortgagor.

6. Applicable Laws. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions applicable to the Mortgaged Property, and not to cause or permit any violation thereof.

7. Advancements.

- a. If Mortgagor fails to pay any claim, lien or encumbrance which is superior to this Mortgage, or when due, any tax or assessment or insurance premium, or to keep the Mortgaged Property in repair, or shall commit or permit waste, or if there be commenced any action or proceeding affecting the Mortgaged Property or the title thereto, or the interest of Mortgagee therein, including, but not limited to, eminent domain and bankruptcy or reorganization proceedings, then Mortgagee, at its option, may pay said claim, lien encumbrance, tax, assessment or premium, with right of subrogation thereunder, may make such repairs and take such steps as it deems advisable to prevent or cure such waste, and may appear in any such action or proceeding and retain counsel therein, and take such action therein as Mortgagee deems advisable, and for any of such purposes Mortgagee may advance such sums of money, including all costs, reasonable attorney's fees and other items of expense as it deems necessary. Mortgagee shall not be held accountable for any delay in making any such payment, which delay may result in any additional interest, costs, charges, expenses or otherwise.
- b. Mortgagor will pay to Mortgagee, immediately and without demand, all sums of money advanced by Mortgagee to protect the security hereof pursuant to this Mortgage, including all costs, reasonable attorney's fees and other items of expense, together with interest on each such advancement at the highest rate of interest per annum allowed by law and all such sums and interest thereon shall be secured hereby.

8. Default.

- a. If default be made in payment of any installment of principal or interest of the Note or any part thereof when due, or in payment, when due, or any other sum hereby, or in performance of any of Mortgagor's obligations, covenants or agreements hereunder, or in any other indebtedness encumbering the real estate herein, regardless of whether said encumbrance is

superior to that created by this mortgage deed, all of the indebtedness secured hereby shall become and be immediately due and payable at the option of Mortgagee, without notice or demand both of which are hereby expressly waived in either law or equity, in which event Mortgagee may avail itself of all rights and remedies, at law or in equity, and this Mortgage may be foreclosed with all rights and remedies afforded by law and Mortgagor shall pay all costs, charges and expenses thereof, including a reasonable attorney's fee. The indebtedness secured hereby shall bear interest at the highest rate of interest per annum allowed by law from and after the date of any such default of Mortgagor. If the Note provides for installment payments, the Mortgagee may, at its option, collect a late charge as may be provided for in the Note, to reimburse the Mortgagee for expenses in collecting and servicing such installment payments.

- b. Default shall include, but not be limited to, non-payment of any respective installment within thirty (30) days from the due date set out therein.

9. Consent to Transfer. In the event the Mortgagor, without the prior written consent of the Mortgagee,

- a. shall, subject to the terms of paragraph 12 of this Mortgage (pertaining to partial releases) sell, convey, transfer (or shall contract to sell, convey or transfer) the Mortgaged Property or any part thereof or any legal or beneficial interest therein, or
- b. (subject to the terms of paragraph 12, pertaining to partial releases) be divested of title or any interest in the Mortgaged Property in any manner or way, whether voluntary or involuntary, or
- c. should lease the entire fee simple interest of the Mortgaged Property (and not simply the improvements and buildings located thereon) not in the ordinary course of business or
- d. should permit the Mortgaged Property to be further encumbered;

the entire balance of the indebtedness evidenced by the Note shall be accelerated and become immediately due and payable, at the option of the Mortgagee, upon thirty (30) days written notice to the Mortgagor. In the event Mortgagee elects to accelerate the entire balance of the indebtedness,

Mortgagee shall have no obligation to allege or show any impairment of its security and may pursue any legal or equitable remedies for default without allegation or showing.

10. Future Advances. This Mortgage shall secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of Mortgagee, or otherwise. Any such future advances, whether obligatory or to be made at the option of the Mortgagee, or otherwise, may be made either prior to or after the due date of the Note or any other notes secured by this Mortgage. This Mortgage is given for the specific purpose of securing any and all indebtedness by the Mortgagor to Mortgagee in whatever manner this indebtedness may be evidenced or represented, until this Mortgage is satisfied of record. All covenants and agreements contained in this Mortgage shall be applicable to all further advances made by Mortgagee to Mortgagor under this future advance clause.
11. No Waiver. No delay by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver or preclude the exercise thereof during the continuance of any default hereunder. No waiver by Mortgagee of any default shall constitute a waiver of or consent to subsequent defaults. No failure of Mortgagee to exercise any option herein given to accelerate maturity of the debt hereby secured, no forbearance by Mortgagee before or after the exercise of such option and no withdrawal or abandonment of foreclosure proceedings by Mortgagee shall be taken or construed as a waiver of its right to exercise such option or to accelerate the maturity of the debt hereby secured by reason of any past, present or future default on the part of Mortgagor, and, in like manner, the procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be taken or construed as a waiver of its right to accelerate the maturity of the debt hereby secured.
12. Releases, Extension, etc. Without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time and from time to time, either before or after the maturity of said note, and without notice or consent, release any person liable for payment of all or any part of the indebtedness or for performance of any obligation; make any

agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, on subordinating, modifying or otherwise dealing with the lien or charge hereof; exercise or refrain from exercising or waive any right Mortgagee may have; accept additional security of any kind; and release all or a portion of, or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the Mortgaged Property. Mortgagee acknowledges and agrees that the Mortgagee shall, upon delivery by the Mortgagor to the Mortgagee of a duly executed closing statement from the sale of any portion of the Mortgaged Property, along with payment to the Mortgagee of the net proceeds from the sale of said portion of the Mortgaged Property, the Mortgagee shall, provided that the property remaining subject to this Mortgage shall provide the Mortgagee with sufficient security for the remaining balance due on the Note, apply the proceeds from the sale of said parcel to the outstanding balance due on the Note and deliver forthwith to the Mortgagor a release, in recordable form, releasing said parcel from the lien of this Mortgage.

13. Priority of Mortgage. This mortgage is specifically secondary and inferior to that certain mortgage given by the Mortgagor herein in favor of **FIRST BANK OF CHILDERSBURG**, as Mortgagee and recorded at Book _____, Page _____ in the Mortgage Records of the Office of the Judge of Probate of Shelby County, Alabama.
14. Waiver of Homestead Exemption. Mortgagor hereby waives all right of homestead exemption, if any, in the Mortgaged Property.
15. Condemnation. In the event of condemnation proceedings of the Mortgaged Property, the award or compensation payable thereunder is hereby assigned to and shall be paid to Mortgagee. Mortgagee shall be under no obligation to question the amount of any such award or compensation and may accept the same in the amount in which the same shall be paid. In any such condemnation proceedings, Mortgagee may be represented by counsel selected by Mortgagee. The proceeds of any award or compensation so received shall, at the option of Mortgagee, either be applied to the prepayment of the Note and at the rate of interest provided therein, regardless of the rate of interest payable on the award by the condemning authority, or at the option of Mortgagee, such award shall be paid over to Mortgagor for restoration of the Mortgaged Property.

16. Foreclosure in Event of Default. Should default be made in the payment of any sum expended by the said Mortgagee or assigns, or should said indebtedness hereby secured, or any part thereof, or the interest thereon, remain unpaid at maturity, or should the interest of said Mortgagee or assigns in said property become endangered by reason of the enforcement of any prior lien or incumbrance thereon, so as to endanger the debt hereby secured, then in any one of said events, the whole of said indebtedness hereby secured shall at once become due and payable, and this mortgage be subject to foreclosure as now provided by law in case of past due mortgages, and the said Mortgagee, agents, or assigns, shall be authorized to take possession of the premises hereby conveyed, and with or without first taking possession, after giving twenty-one days' notice, by publishing once a week for three consecutive weeks, the time, place and terms of sale, by publication in some newspaper published in said County and State, sell the same in lots or parcels or en masse as Mortgagee, agents or assigns deem best, in front of the Court House door of said County, (or the division thereof) where said property is located, at public outcry, to the highest bidder for cash, and apply the proceeds of the 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 it may then be necessary to expend, in paying insurance, taxes, or other encumbrances, with interest thereon; 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, but no interest shall be collected beyond the day of sale; and Fourth, the balance, if any, to be turned over to the said Mortgagor and undersigned further agree that said Mortgagee, agents or assigns may bid at said sale and purchase said property, if the highest bidder therefor; and undersigned further agree to pay a reasonable attorney's fee to said Mortgagee or assigns, for the foreclosure of this mortgage in Chancery, should the same be so foreclosed, said fee to be a part of the debt hereby secured.

17. Notices. Any written notice, demand or request that is required to be made hereunder, or under the Note, or under any other instrument of security for the Note, shall be served in person, or by certified mail, return receipt requested, addressed to the party to be served at the address set forth in the first paragraph hereof. The addresses stated herein may be changed as to the applicable party by providing the other party with notice of such address change in the manner provided in this paragraph; provided, however, so long as the Mortgagor is the owner of all or any part of the Mortgaged Property the address of

the Borrower must be located within the continental United States of America. In the event that written notice, demand or request is made as provided in this paragraph, then in the event that such notice is returned to the sender by the United States postal system because of insufficient address or because the party has moved or otherwise, other than for insufficient postage, such writing shall be deemed to have been received by the party to whom it was addressed on the date that such writing was initially placed in the United States postal system by the sender.

18. Non-transferability. This Mortgage may not be assumed by any subsequent holder of an interest in the Mortgaged Property without the prior written approval of the Mortgagee. If all or any part of the Mortgaged Property, or any interest therein, is sold, conveyed, or transferred by Mortgagor without Mortgagee's prior written consent, excluding the grant of any leasehold interest in the Mortgaged Property, then Mortgagee may declare all sums secured by this Mortgage immediately due and payable.
19. Representations and Warranties of Mortgagor. Mortgagor represents and warrants that it is duly organized and validly existing, in good standing under the laws of the State of its incorporation, has stock outstanding which has been duly and validly issued, and is qualified to do business and is in good standing in the State in which the Mortgaged Property is situated, with full power and authority to consummate the loan contemplated hereby.
20. Invalidity. In the event any one or more of the provisions contained in this Mortgage or in the Note shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provisions of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. The total interest payable pursuant to the Note or this Mortgage shall not in any one year exceed the highest rate of interest permitted by law.
21. Binding Effect. The covenants and agreements herein contained shall bind and the benefits and advantages shall inure to the respective heirs, executors, administrators, personal representatives, successors, and assigns of Mortgagee. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. All covenants, agreements and undertakings shall be joint and several. In

the event additional numbered covenants or paragraphs are for convenience inserted in this Mortgage, such additional covenants shall be read and given effect as though following this covenant in consecutive order.

22. Governing Law. This agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, Mortgagor has duly executed and delivered this Mortgage and has intended the same to be and become effective as of the day and year first above written.

SHADY OAKS, INC.

by: Rudy L. Southerland (President)
its President

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

The foregoing instrument was executed and acknowledged before me, a Notary Public in and for said State at large, this 15th day of November, 1996, by Rudy L. Southerland, President of SHADY OAKS, INC., in said capacity and on behalf of said Corporation.

WITNESS my hand and official seal in the State and County aforesaid, this 15th day of November, 1996.

(SEAL)

[Signature]
Notary Public
State of Alabama
My Commission Expires:

10-6-97

Prepared by Patrick F. Smith, Attorney, 4 Office Park Circle,
Suite 212, Birmingham, Alabama 35223.

Exhibit "A" Legal Description

From the true (sized section) N.W. corner of the SW 1/4 of the NE 1/4 of Section 2, Township 20 South, Range 2 East, run thence true South 00 degrees 55 minutes 10 seconds West along the true West boundary of said SW 1/4 of the NE 1/4 a distance of 287.12 feet to a point on the Southerly boundary of U.S. Highway #280 (250 feet Right of Way) being the Point of Beginning of herein described parcel of land; thence turn 00 degrees 38 minutes 31 seconds left and run South 00 degrees 16 minutes 39 seconds left and run South 00 degrees 16 minutes 39 seconds along an accepted property line a distance of 642.51 feet; thence turn 00 degrees 01 minutes 35 seconds right and continue South 00 degrees 18 minutes 14 seconds West along said accepted property line of a distance of 396.07 feet; thence turn 00 degrees 06 minutes 47 seconds left and continue South 00 degrees 11 minutes 27 seconds West along said accepted property line a distance of 1378.17 feet; thence turn 00 degrees 18 minutes 59 minutes right and continue South 00 degrees 30 minutes 26 seconds West along accepted property line a distance of 1273.32 feet to a Point on the True South boundary of Section 2, Township 20 South, Range 2 East, said Point being 38.14 feet South 89 degrees 22 minutes 15 seconds East of the true S.W. corner of the S.W. corner of the SW 1/4 of the SE 1/4 of Section 2; thence turn 89 degrees 52 minutes 41 seconds left and run South 89 degrees 22 minutes 15 seconds East along the true South boundary of said Section 2, a distance of 1276.89 feet to the S.E. corner of said SW 1/4 of the SE 1/4; thence turn 89 degrees 32 minutes 55 seconds left and run North 1 degree 04 minutes 50 seconds East a distance of 1327.34 feet to the true N.E. corner of said SW 1/4 of the SE 1/4; thence turn 00 degrees 54 minutes 15 seconds left and run North 00 degrees 10 minutes 35 seconds East along an accepted property line a distance of 1317.26 feet; thence turn 1 degree 27 minutes 51 seconds right and run North 1 degree 38 minutes 26 seconds East along an accepted property line a distance of 77.98 feet to a point on the Southerly boundary of aforementioned U.S. #280; thence turn 54 degrees 18 minutes 20 seconds left and run North 52 degrees 39 minutes 54 seconds West along said Highway boundary a distance of 1618.73 feet to the Point of Beginning of herein of herein described parcel of land.

LESS AND EXCEPT:

From the true (sized section) N.W. corner of the SW 1/4-NE 1/4 of Section 2, Township 20 South, Range 2 East, run thence true South 00 degrees 55 minutes 10 seconds West along the true West boundary of said SW 1/4 of the NE 1/4, a distance of of 287.12 feet to a point on the Southerly boundary of U.S. Highway #280 (250 foot Right of Way), being the Point of Beginning of the herein described parcel of land; thence turn 00 degrees 38 minutes 31 seconds left and run South 00 degrees 16 minutes 39 seconds West along an accepted property line a distance of 642.51 feet; thence turn 00 degrees 01 minutes 35 seconds right and continue South 00 degrees 18 minutes 14 seconds West along said accepted property line a distance of 396.07 feet; thence turn 00 degrees 06 minutes 47 seconds left and continue South 00 degrees 11 minutes 27 seconds West along said accepted property line a distance of 468.75 feet; thence turn 90 degrees 11 minutes 27 seconds left and run 300.0 feet; thence turn 90 degrees 00 minutes right and run 205.50 feet; thence turn 90 degrees 00 minutes left and run 989.58 feet to a point on an accepted property line; thence turn 89 degrees 49 minutes 25 seconds left and run North 00 degrees 10 minutes 35 seconds East along said accepted property line a distance of 653.15 feet; thence turn 01 degree 27 minutes 51 seconds right and run North 01 degree 38 minutes 26 seconds East along said accepted property line a distance of 77.98 feet to a point on the Southerly boundary of aforementioned U.S. Highway #280; thence turn 54 degrees 18 minutes 20 seconds left and run 1618.73 feet along said Highway boundary to the Point of Beginning of the herein described parcel of land.

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