

## SECOND ASSIGNMENT OF GROUND LEASE

This Second Assignment of Ground Lease ("Second Assignment") is made and entered into as of July 31, 1997, by and between J.W. Palmer, an individual resident of the State of Alabama, and Windy Oaks Partnership, an Alabama general partnership (together, "Assignor"), and Brookwood Center Development Corporation, an Alabama corporation ("Assignee"), based upon the following facts:

A. Roy Martin Construction, Inc., as Lessor ("Martin Construction") and Stan R. Ehlman, as Lessee ("Lessee"), are the parties to certain Ground Lease Agreement executed on January 15, 1987 (the "Ground Lease"), with regard to that certain parcel of real property described in the Ground Lease. The Ground Lease was recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Book 119, Page 654.

B. Martin Construction assigned the Lessor's interest under the Ground Lease to Assignor pursuant to the terms of that certain Assignment of Ground Lease dated March 22, 1991, effective as of July 16, 1987, and recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Book 335, Page 943 (the "First Assignment").

C. Assignor and Lessee entered into that certain Renewal of Ground Lease dated as of January 30, 1996, by which the term of the Ground Lease was extended until January 14, 2002, unless sooner terminated according to the terms of the Ground Lease (the "Lease Renewal"). A copy of the Lease Renewal is attached to this Second Assignment as Exhibit "A" and made a part hereof.

D. Assignee is acquiring fee title in and to the real property that is the subject of the Ground Lease from Assignor, together with certain adjoining real property. In connection with and as part of the acquisition of such real property, Assignor desires to assign the Lessor's interest under the Ground Lease to Assignee, and Assignee desires to accept such assignment of the Lessor's interest of the Ground Lease on the terms and conditions set forth in this Second Assignment.

**NOW, THEREFORE**, based on the foregoing recitals and for valuable consideration, receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns and transfers to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the Ground Lease, together with all rents payable thereunder and all benefits and advantages to be derived therefrom.

2. Assignor hereby empowers Assignee, its agents and attorneys, to collect, sue for, settle, compromise and give receipts for all of the rents that may become due from the lessee under the Ground Lease and to avail itself of and pursue all remedies for the enforcement of the Ground Lease and Assignor's rights in and under the Ground Lease, as Assignor might have pursued but for this Second Assignment.

3. Assignee shall incur no liability for any claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and/or liabilities, of any kind or nature, in law, equity or otherwise, arising from or relating to the Ground Lease and/or the lessee under the Ground Lease prior to the effective date of this Assignment. Assignor hereby agrees to indemnify, defend and hold Assignee and its successors and assigns harmless from and against any such liability.

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Alabama Title

4. Assignor shall incur no liability for any claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and/or liabilities, of any kind or nature, in law, equity or otherwise, arising from or relating to the Ground Lease and/or the lessee under the Ground Lease from and after the effective date of this Assignment. Assignee hereby agrees to indemnify, defend and hold Assignor and its successors and assigns harmless from and against any such liability.

5. This Second Assignment shall be binding on and inure to the benefit of Assignor and Assignee and their respective successors and permitted assigns; provided, however, that Assignee shall have no right to assign its rights to indemnification hereunder from Assignor to any other party without Assignor's prior written consent, which may be withheld for any reason in Assignor's sole discretion. This Second Assignment may be executed in two or more counterparts, and/or by facsimile, all of which taken together shall constitute a fully executed original hereof. Assignee may cause this Second Assignment to be recorded in the Office of the Judge of Probate of Shelby County, Alabama, at its expense.

IN WITNESS WHEREOF, this Second Assignment of Ground Lease is executed as of the date first written above.

"Assignor"

Windy Oaks Partnership  
an Alabama general partnership

By: Shelby Homes, Inc.,  
a general partner

\_\_\_\_\_  
J.W. Palmer

By: \_\_\_\_\_  
J.W. Palmer, its Vice President

By: Roy Martin Construction, Inc.  
a general partner

By: \_\_\_\_\_  
Roy Martin, its President

"Assignee"

Brookwood Center Development Corporation  
an Alabama corporation

By:  \_\_\_\_\_

Its \_\_\_\_\_  
Vice President

State of Alabama                    )  
  ) ss.  
County of \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that J.W. Palmer, whose name as Vice President of Shelby Homes, Inc., an Alabama corporation, as a general partner of Windy Oaks (formerly known as Windy Oaks Partnership) an Alabama general partnership, is signed to the foregoing assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as a general partner of Windy Oaks.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

State of Alabama                    )  
  ) ss.  
County of \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Roy Martin, whose name as President of Roy Martin Construction, Inc. an Alabama corporation, as a general partner of Windy Oaks (formerly known as Windy Oaks Partnership) an Alabama general partnership, is signed to the foregoing assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as a general partner of Windy Oaks.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

State of Alabama                    )  
  ) ss.  
County of \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that J.W. Palmer, signed to the foregoing assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, executed the same voluntarily.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

State of California                    )  
  )       SS.  
County of Santa Barbara            )

On August 1, 1997, 1997, before me, Teresa Grimes, a Notary Public in and for said State, personally appeared Terence P. McMullen, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me the he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Teresa Grimes





**SECOND ASSIGNMENT OF GROUND LEASE**

This Second Assignment of Ground Lease ("Second Assignment") is made and entered into as of July 31, 1997, by and between J.W. Palmer, an individual resident of the State of Alabama, and Windy Oaks Partnership, an Alabama general partnership (together, "Assignor"), and Brookwood Center Development Corporation, an Alabama corporation ("Assignee"), based upon the following facts:

A. Roy Martin Construction, Inc., as Lessor ("Martin Construction") and Stan R. Rhiman, as Lessee ("Lessee"), are the parties to certain Ground Lease Agreement executed on January 15, 1987 (the "Ground Lease"), with regard to that certain parcel of real property described in the Ground Lease. The Ground Lease was recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Book 119, Page 654.

B. Martin Construction assigned the Lessor's interest under the Ground Lease to Assignor pursuant to the terms of that certain Assignment of Ground Lease dated March 22, 1991, effective as of July 16, 1987, and recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Book 335, Page 943 (the "First Assignment").

C. Assignor and Lessee entered into that certain Renewal of Ground Lease dated as of January 30, 1996, by which the term of the Ground Lease was extended until January 14, 2002, unless sooner terminated according to the terms of the Ground Lease (the "Lease Renewal"). A copy of the Lease Renewal is attached to this Second Assignment as Exhibit "A" and made a part hereof.

D. Assignee is acquiring fee title in and to the real property that is the subject of the Ground Lease from Assignor, together with certain adjoining real property. In connection with and as part of the acquisition of such real property, Assignor desires to assign the Lessor's interest under the Ground Lease to Assignee, and Assignee desires to accept such assignment of the Lessor's interest of the Ground Lease on the terms and conditions set forth in this Second Assignment.

NOW, THEREFORE, based on the foregoing recitals and for valuable consideration, receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns and transfers to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the Ground Lease, together with all rents payable thereunder and all benefits and advantages to be derived therefrom.

2. Assignor hereby empowers Assignee, its agents and attorneys, to collect, sue for, settle, compromise and give receipts for all of the rents that may become due from the lessee under the Ground Lease and to avail itself of and pursue all remedies for the enforcement of the Ground Lease and Assignor's rights in and under the Ground Lease, as Assignor might have pursued but for this Second Assignment.

3. Assignee shall incur no liability for any claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and/or liabilities, of any kind or nature, in law, equity or otherwise, arising from or relating to the Ground Lease and/or the lessee under the Ground Lease prior to the effective date of this Assignment. Assignor hereby agrees to indemnify, defend and hold Assignee and its successors and assigns harmless from and against any such liability.

*Alabama Title*

4. Assignor shall incur no liability for any claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and/or liabilities, of any kind or nature, in law, equity or otherwise, arising from or relating to the Ground Lease and/or the lease under the Ground Lease from and after the effective date of this Assignment. Assignee hereby agrees to indemnify, defend and hold Assignor and its successors and assigns harmless from and against any such liability.


5. This Second Assignment shall be binding on and inure to the benefit of Assignor and Assignee and their respective successors and permitted assigns; provided, however, that Assignee shall have no right to assign its rights to indemnification hereunder from Assignor to any other party without Assignor's prior written consent, which may be withheld for any reason in Assignor's sole discretion. This Second Assignment may be executed in two or more counterparts, and/or by facsimile, all of which taken together shall constitute a fully executed original hereof. Assignee may cause this Second Assignment to be recorded in the Office of the Judge of Probate of Shelby County, Alabama, at its expense.

IN WITNESS WHEREOF, this Second Assignment of Ground Lease is executed as of the date first written above.

"Assignor"

Windy Oaks Partnership  
an Alabama general partnership

By: Shelby Homes, Inc.,  
a general partner

  
J.W. Palmer

By:   
J.W. Palmer, its Vice President

By: Roy Martin Construction, Inc.  
a general partner

By:   
Roy Martin, its President

"Assignee"

Brookwood Center Development Corporation  
an Alabama corporation

By: \_\_\_\_\_  
Its \_\_\_\_\_

State of Alabama )  
 ) ss.  
 County of Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that J.W. Palmer, whose name as Vice President of Shelby Homes, Inc., an Alabama corporation, as a general partner of Windy Oaks (formerly known as Windy Oaks Partnership) an Alabama general partnership, is signed to the foregoing assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as a general partner of Windy Oaks.

Given under my hand and official seal, this 31st day of July, 1997.

Nancy C. Anderson  
 Notary Public MY COMMISSION EXPIRES APRIL 25, 2000  
 My Commission Expires: \_\_\_\_\_

State of Alabama )  
 ) ss.  
 County of Shelby )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Roy Martin, whose name as President of Roy Martin Construction, Inc. an Alabama corporation, as a general partner of Windy Oaks (formerly known as Windy Oaks Partnership) an Alabama general partnership, is signed to the foregoing assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as a general partner of Windy Oaks.

Given under my hand and official seal, this 31st day of July, 1997.

Brenda H. Clayton  
 Notary Public  
 My Commission Expires: 4-27-2001

State of Alabama )  
 ) ss.  
 County of Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that J.W. Palmer, signed to the foregoing assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, executed the same voluntarily.

Given under my hand and official seal, this 31st day of July, 1997.

Nancy C. Anderson  
 Notary Public MY COMMISSION EXPIRES APRIL 25, 2000  
 My Commission Expires: \_\_\_\_\_

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SHELBY COUNTY JUDGE OF PROBATE

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Received: