

**Inst # 2000-26364**

**FIRST AMENDMENT TO MORTGAGE**

## Recitals

C. The Mortgagor has requested the Lender to increase the principal amount of the Existing Loan from \$2,700,000 to \$4,180,000 (as so increased and amended, the "Amended Loan"), which the Lender has agreed to do, upon the condition that, among other things, the Mortgagor execute this Amendment in order to reflect that the Mortgage shall secure the repayment of the Amended Loan.

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements set forth in this Amendment, effective as of the Effective Date, the Mortgagor and the Lender hereby agree as follows:

00592035.1

Cahaba Title, Inc.

2. From and after the Effective Date, the second paragraph on page 1 of the Mortgage shall be, and it is hereby, replaced in its entirety with the following:

WHEREAS, Waterford, L.L.C., is justly indebted to the Mortgagee in the amount of Four Million One Hundred Eighty Thousand and No/100 Dollars (\$4,180,000.00) as evidenced by that certain Master Note - Commercial Loans dated July 14, 2000 which bears interest as provided therein.

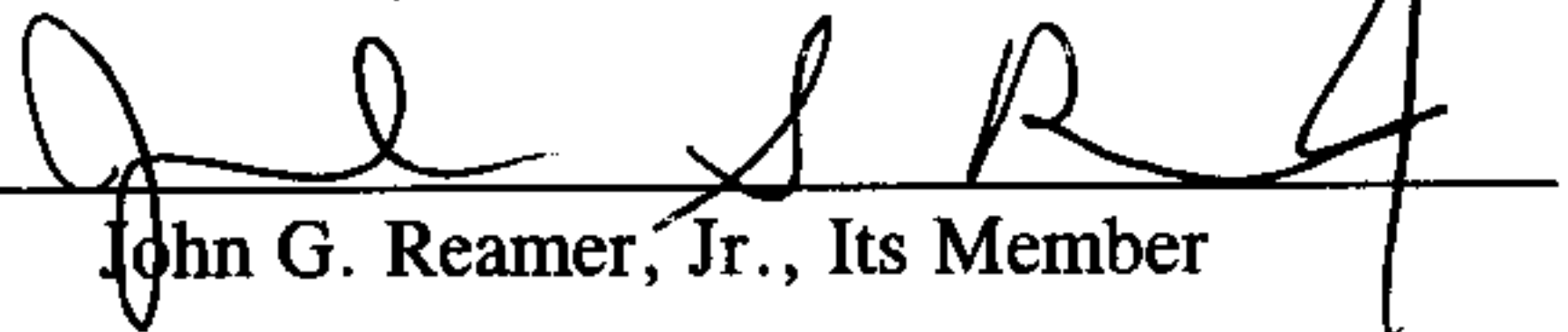
3. From and after the Effective Date, the Mortgage Rider attached to the Mortgage is hereby replaced in its entirety with the Replacement Mortgage Rider attached hereto.

4. In order to induce the Lender to enter into this Amendment, the Mortgagor hereby represents and warrants that all the representations and warranties set forth in the Mortgage and each of the Credit Documents are true and correct as of the date of this Amendment and as of the date of execution hereof; and no event of default under the Mortgage has occurred and is continuing.

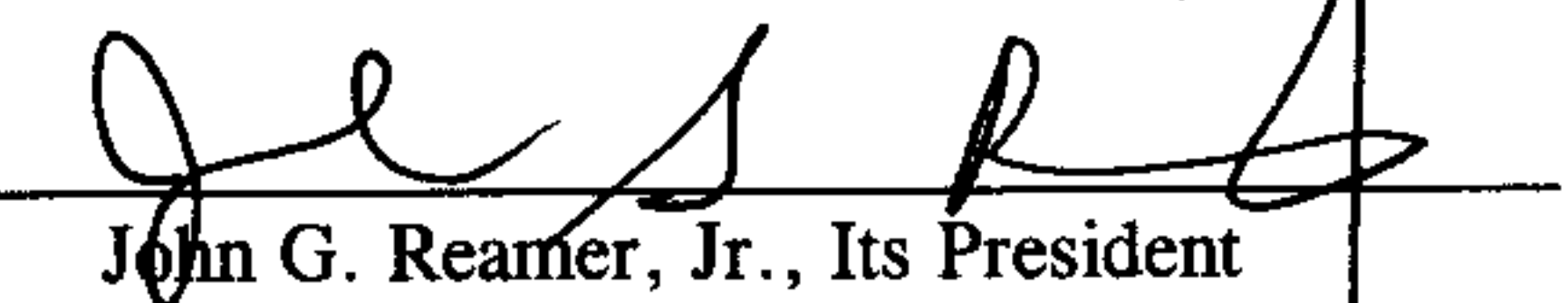
5. Except as hereby expressly modified and amended the Mortgage and the Assignment shall remain in full force and effect in accordance with its terms. This Amendment is not intended to be or create, nor shall it be construed as, a novation or an accord and satisfaction of the debts secured by the Mortgage and the Assignment.

IN WITNESS WHEREOF, each of the undersigned has executed this Amendment or caused this Amendment to be executed in its name and on its behalf by its duly authorized officer or member, as the case may be, all as of the Effective Date first set forth above.

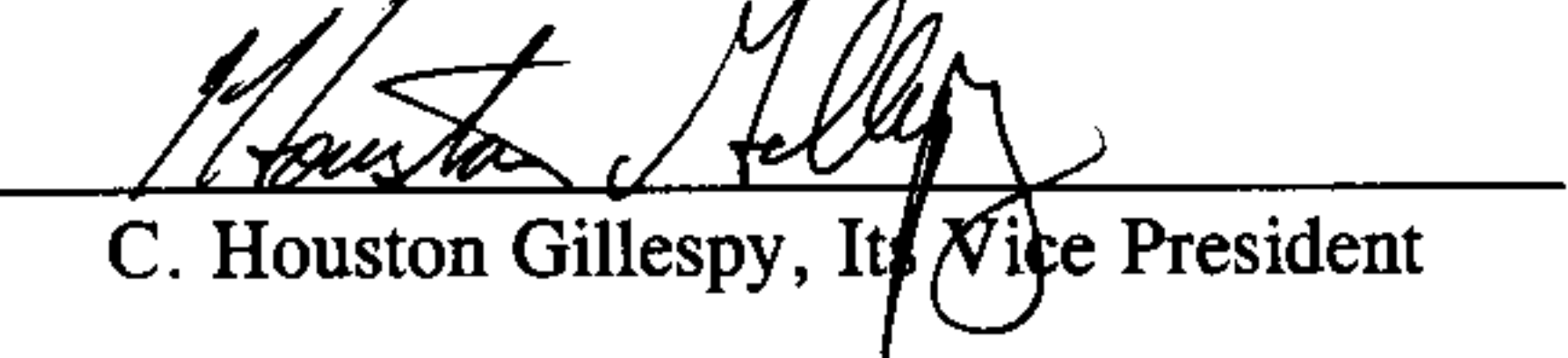
**WATERFORD, L.L.C.**

By:   
John G. Reamer, Jr., Its Member

**SHELBY SPRINGS STOCK FARMS, INC.**

By:   
John G. Reamer, Jr., Its President

**NATIONAL BANK OF COMMERCE OF  
BIRMINGHAM**

By:   
C. Houston Gillespy, Its Vice President

STATE OF ALABAMA                    )  
COUNTY OF JEFFERSON            )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John G. Reamer, Jr., whose name as a member of Waterford, L.L.C., an Alabama limited liability company, 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, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this 14<sup>th</sup> day of July, 2000.

Kay H. Lyle  
Notary Public

[AFFIX SEAL]

My Commission Expires: 11-6-00

STATE OF ALABAMA                    )  
COUNTY OF JEFFERSON            )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John G. Reamer, Jr., whose name as President of Shelby Springs Stock Farms, Inc., an Alabama 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, 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 14<sup>th</sup> day of July, 2000.

Kay H. Lyle  
Notary Public

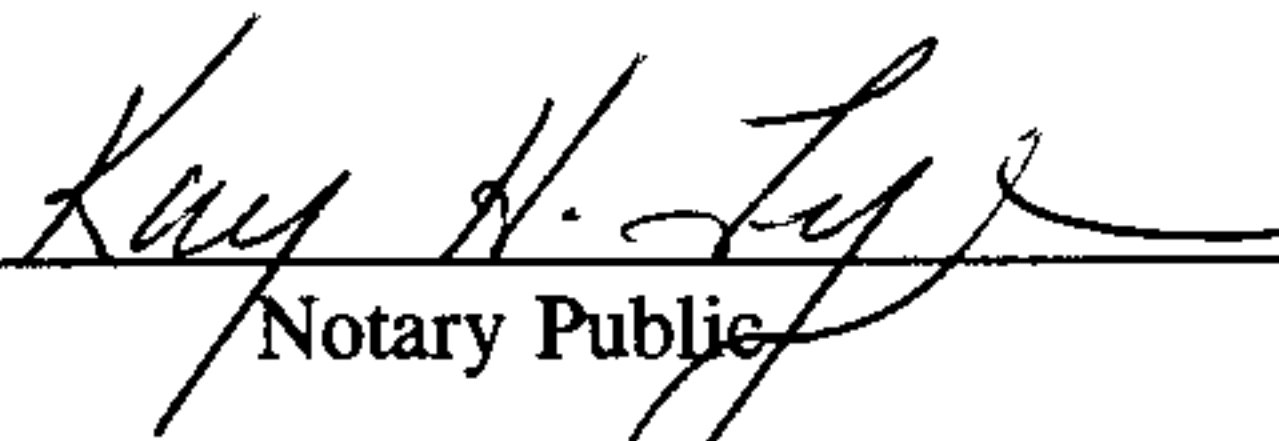
[AFFIX SEAL]

My Commission Expires: 11-6-00

STATE OF ALABAMA                    )  
COUNTY OF JEFFERSON            )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that C. Houston Gillespy, whose name as Vice President of National Bank of Commerce of Birmingham, a national banking association, 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, as such officer and with full authority, executed the same voluntarily for and as the act of said national banking association.

Given under my hand and official seal, this 14<sup>th</sup> day of July, 2000.

  
\_\_\_\_\_  
Notary Public

[AFFIX SEAL]

My Commission Expires: 11-6-00

This instrument was prepared by:  
Thomas C. Clark III, Esq.  
MAYNARD, COOPER & GALE, P.C.  
1901 Sixth Avenue North  
2400 AmSouth/Harbert Plaza  
Birmingham, Alabama 35203-2602



## **REPLACEMENT MORTGAGE RIDER**

This Replacement Mortgage Rider ("this Rider") is made this 14<sup>th</sup> day of July, 2000, and is incorporated into and shall be deemed to amend and supplement that certain Accommodation Mortgage dated December 6, 1999, as amended by that certain First Amendment thereto dated of even date herewith given by the undersigned (the "Mortgagor") to secure the Mortgagor's Amended and Restated Master Note - Commercial Loans (the "Note"), to National Bank of Commerce of Birmingham, a national banking association (the "Lender") dated of even date herewith.

1. For purposes of the Mortgage and this Rider, the following terms shall have the following meanings:

**Construction Documents** means (a) all plans and specifications for the Project, or any portion thereof; (b) all contracts with architects and engineers responsible for the design of any of the Project, the preparation or evaluation of any of such plans and specifications or the supervision of the construction of any of the Project; (c) all contracts to which the Mortgagor is a party providing for the construction of any of the Project or the furnishing of labor or materials in connection therewith or the furnishing or installation of any equipment or other personal property in connection therewith; (d) all contracts to which the Mortgagor is a party providing for the management of the construction of any of the Project; (e) all rights of the Mortgagor as a third party beneficiary under all contracts and subcontracts pertaining to the Project as to which the Mortgagor is not a party; (f) all payment and performance bonds relating to any of the Project; (g) all other contracts and agreements related to the design, management, construction, equipping and development of any of the Project; and (h) all contracts with public utilities, governmental authorities and other persons for the furnishing of roads or utilities to the Project and all deposits thereunder.

**Lot** shall mean any lot in the Project as shown on a subdivision plat for the Project prepared by an architect approved by the Lender in its reasonable discretion, or any revision thereof, which plat must be approved by the Lender and any appropriate governmental authorities.

**Lot Contracts** shall mean all sale contracts heretofore or hereafter entered into by the Mortgagor with any person for the sale of any Lot in the Project (or the grant of any option to purchase, right of first refusal, right to select a Lot, or any other right or interest whatsoever with respect to any Lot in the Project).

**Project** means a certain project consisting of Improvements to be financed in whole or in part with the proceeds of the Debt and to be constructed on the Real Estate, together with all related utilities, roads and other off-site Improvements, if

any, said project being generally described as follows: development of parcel of land located in Shelby County, Alabama.

**Purchasers** shall mean the parties other than the Mortgagors named in the Lot Contracts, and their heirs, successors and assigns.

2. **Release of Lots.** So long as no Event of Default shall have occurred and be continuing, any Lots in the Project may be released from the lien of this Mortgage upon the Mortgagor's request in connection with a bona fide sale of such Lot to a Purchaser accompanied by payment to the Lender of a sum equal to the following amount for each Lot for which a release is requested: the greater of (i) in the case of subdivided Lots, (a) \$15,210 for Lots with 40 feet of frontage, (b) \$16,650 for Lots with 60 feet of frontage, (c) \$19,200 for Lots with 80 feet of frontage, and (d) \$27,000 for Lots with 100 feet of frontage; (ii) in the case of portions of the Project sold in the form of acreage, an amount determined by multiplying the number of acres by \$4,000; or (iii) ninety percent (90%) of the gross proceeds received by the Mortgagor from the sale of such Lot. Upon payment to the Lender of the release price with respect to any Lot, the Lender shall promptly deliver to the Mortgagor a partial release of said Lot from the lien of this Mortgage, and the Lender shall apply the release price to the reduction of the Debt secured hereby in such order as the Lender, in its sole discretion, may elect. Notwithstanding anything contained herein or in any of the other documents evidencing the loan, if the Mortgagor has not sold a sufficient number of Lots by June 1, 2001 to have made principal reduction payments to the Lender in an amount equal to \$1,000,000, the Mortgagor shall be required to make a principal reduction payment to the Lender on June 1, 2001 to reduce the loan balance by such amount as of such date. The failure to make such payment on or before such date shall be deemed an Event of Default under the loan.

3. The following paragraph is hereby inserted in the Mortgage as an additional paragraph at the end of page 1 of the Mortgage:

Together with (i) all Construction Documents, (ii) all Lot Contracts, (iii) all guarantees of payment or performance of any of the obligations of the Purchasers under the Lot Contracts, (iv) all sales proceeds and other sums payable under the Lot Contracts, including all earnest money and other deposits paid or to be paid thereunder, and (v) all awards, dividends and other payments heretofore or hereafter made to the Mortgagor in any court proceedings involving any of the Purchasers under the Lot Contracts in any bankruptcy, insolvency or reorganization proceedings in any state or federal court (the Mortgagor hereby appointing the Lender as the Mortgagor's irrevocable attorney in fact to appear in any such proceeding and to collect any such award, dividend or other payment).

4. Except as specifically modified and amended hereby, the Mortgage, including, without limitation, the property description contained therein, shall remain in full force and effect in accordance with its terms.

By signing below, the Mortgagor accepts and agrees to the terms and covenants contained in this Rider.

WATERFORD, L.L.C.

By: [Signature]  
Its: MEMBER

SHELBY SPRINGS STOCK FARMS, INC.

By: [Signature]  
Its: PRESIDENT

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John G. Reamer, Jr. whose name as the Member of Waterford, L.L.C., an Alabama limited liability company, is signed to the foregoing instrment, and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he, as such Managing Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 14th day of July, 2000.

[Signature]  
NOTARY PUBLIC  
My commission expires: 11/6/00

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John G. Reamer, Jr. whose name as the President of Shelby Springs Stock Farms, Inc., an Alabama 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 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 14th day of July, 2000.

[Signature]  
NOTARY PUBLIC  
My commision expires: 11/6/00

Inst # 2000-26364

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08/04/2000-26364  
08:35 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
007 NWS 2243.50