

Aug 3 1 42 PM '98

## LAND TRUST AGREEMENT

BK 78 PG 262  
W.E. DAVID CH. CLK.

THIS LAND TRUST AGREEMENT is made this 29<sup>th</sup> day of July 1998, by and between CHARLES L. WIGGINS, JR. AND MELANIE D. WIGGINS, Grantor(s) and Beneficiary(ies), (hereinafter collectively referred to as the "Beneficiary(ies)"), and

JEANNIE MILLER, Trustee of the 2830 BRACHTON COVE W. Land Trust, (hereinafter referred to as the "Trustee", which designation shall include all successor trustees).

WHEREAS, the Beneficiaries are about to convey or cause to be conveyed certain real property to the Trustee, and

WHEREAS, the Trustee has agreed to accept such conveyance and hold the real property in trust under the terms and conditions set forth below.

NOW, THEREFORE, the parties, intending to be legally bound hereby, agree as follows:

1. TITLE. The trust created by this instrument shall be known as the 2830 BRACHTON COVE W. Land Trust.

2. OBJECTS AND PURPOSES OF TRUST. The purpose of this trust is for the Trustee to take and hold title to the property conveyed to the Trustee and to preserve the same until its sale or other disposition.

The Trustee shall not undertake any activity which is not strictly necessary to attainment of the foregoing objects and purposes, nor shall the Trustee transact business within the meaning of applicable state law, or any other law, nor shall this Land Trust Agreement be deemed to be, or create or evidence the existence of a corporation, de facto or de jure, or a Massachusetts Trust, or any other type of business trust, or an association in the nature of a corporation, or a co-partnership or joint venture by or between the Trustee and the Beneficiaries, or by or between the Beneficiaries.

3. TRUST PROPERTY. The Beneficiaries are about to convey or cause to be conveyed to the Trustee in trust certain real property as described more particularly in Schedule "A" attached hereto and made a part hereof. This property, together with any property later added to the trust, shall be designated as the "Trust Property". The Trustee will hold the Trust property according to the terms and conditions of this Land Trust Agreement for the purposes, terms and conditions contained herein until such time as all of the Trust Property has been sold or otherwise conveyed, or until this trust has been

terminated. The Trustee shall maintain a list of the Trust Property which shall be designated as Schedule "B" under this Agreement.

4. **POWERS AND DUTIES OF TRUSTEE.** The Trustee shall have all of the powers allowed to him by the provisions of the state law governing this Trust (see Paragraph 18). The Trustee shall specifically have the power to make and execute contracts for the lease or sale of the Trust Property, mortgages secured by the Trust Property, option agreements for the sale or lease of the Trust Property and to otherwise dispose of the Trust Property as the Trustee shall be directed by the majority in interest of the Beneficiaries. In addition, the Trustee shall have the power to perform any act that the majority in interest direct the Trustee to perform. The Trustee shall exercise his powers only upon the written direction of a majority in interest of the Beneficiaries.

The Trustee shall have the duty to maintain an accurate record of the Beneficiaries of this Trust, which record shall include the names and addresses of the Beneficiaries and their respective interests in the Trust and be designated as Schedule "C". The Trustee shall only have such other duties as required in writing by a majority in interest of the Beneficiaries.

The Trustee shall not have the power to bind any of the Beneficiaries personally to any debt or obligation without the express written consent of the Beneficiary.

5. **COMPENSATION OF TRUSTEE.** The Trustee shall be compensated for his actions as Trustee according to the Schedule of Compensation set forth in Schedule "D" attached hereto and made a part hereof. The Trustee shall be promptly reimbursed by the Beneficiaries for expenses incurred by the Trustee in the administration of the Trust. The Trustee shall have a lien on the Trust Property for any unpaid compensation or unreimbursed expenses.

The Trustee shall not be obligated to advance any money on account of this Trust. The Trustee shall not be obligated to commence any legal action or to defend against any legal action unless the Trustee, in his sole discretion, is satisfied with the security provided by the Beneficiaries for the payment of the Trustee's costs and expenses in connection with the litigation.

If the Trustee shall pay or incur any liability to pay any money on account of this Trust, or incur any liability to any money on account of being made a party to any litigation as a result of holding title to the Trust Property or otherwise in connection with this Trust, without regard to the cause of action asserted or complaint filed, the Beneficiaries, jointly and severally, agree that on demand they will pay to the Trustee all such payments or liabilities, his expenses incurred in connection therewith, including reasonable attorneys' fees, and any other sums advanced by the Trustee on behalf of the Trust for any reason whatsoever. These amounts, if not immediately paid to the Trustee, shall bear interest at the rate of ten (10%) percent per

annum until paid in full. These amounts and any compensation due to the Trustee, until paid in full to the Trustee, shall constitute a lien on the Trust Property. Further, as long as these amounts or any compensation due to the Trustee remain unpaid, the Trustee shall not have any obligation to take any action with regard to the Trust Property.

6. **LIABILITY OF TRUSTEE.** The Trustee shall not be personally liable for any obligation of the Trust. No Beneficiary shall be able to bind the Trustee nor contract on his behalf without the Trustee's express written consent. The Trustee and any successor Trustee shall not be required to give a bond. Each Trustee is liable only for his own actions and then only as a result of his own gross negligence or bad faith.

7. **REMOVAL OF TRUSTEE.** A majority in interest of the Beneficiaries shall have the power to remove the Trustee from his office and appoint a successor to succeed him.

8. **RESIGNATION AND SUCCESSOR.** The Trustee may resign by giving written notice to each of the Beneficiaries of his intention to resign.

The majority in interest of the Beneficiaries shall have the power to elect a successor trustee. If the Beneficiaries have not elected a successor trustee within thirty (30) days of the date of the notice from the Trustee of his resignation, then the Trustee shall have the right to convey the Trust Property to the Beneficiaries in the same proportion as their interests in the Trust may appear at the time of said conveyance.

If the office of the Trustee shall become vacant for any reason, then the Beneficiaries shall proceed to elect a successor trustee. Said election shall occur within thirty (30) days of the occurrence of the vacancy. Upon election, the new Trustee shall cause to be prepared a certificate of his election containing a notice of election and his acceptance thereof in a form acceptable for recording in the office of the register of deeds of all of the counties in which the Trust Property is located. The certificate of election shall be filed in the office of the register of deeds of all of the counties in which the Trust Property is located.

A successor Trustee shall have all of the rights, duties and powers of the original Trustee as if the successor Trustee was the original Trustee.

The removal, resignation or death of the Trustee shall not affect the lien of the Trustee upon the Trust Property for compensation or expenses owed to the Trustee.

9. **INCOME TAX RETURNS.** The Trustee shall not be responsible for the preparation and/or filing of any tax returns which may be due for the reporting of income and expenses of the Trust, although he will sign such returns upon request. The Beneficiaries shall each individually report receipt of their respective share of the profits, earnings, avails and proceeds.

10. INDEMNIFICATION OF THE TRUSTEE. The Beneficiaries agree to indemnify, hold harmless and defend the Trustee from any and all liability incurred in his capacity as Trustee. If the Trustee shall pay or incur any liability to pay any money on account of this Trust, or incur any liability to any money on account of being made a party to any litigation as a result of holding title to the Trust Property or otherwise in connection with this Trust, without regard to the cause of action asserted or complaint filed, the Beneficiaries, jointly and severally, agree that on demand they will pay to the Trustee all such payments or liabilities, his expenses incurred in connection therewith, including reasonable attorneys' fees, and any other sums advanced by the Trustee on behalf of the Trust for any reason whatsoever. These amounts, if not immediately paid to the Trustee, shall bear interest at the rate of ten (10%) percent per annum until paid in full. These amounts and any compensation due to the Trustee, until paid in full to the Trustee, shall constitute a lien on the Trust Property. Further, as long as these amounts or any compensation due to the Trustee remain unpaid, the Trustee shall not have any obligation to take any action with regard to the Trust Property.

11. DEALINGS WITH TRUSTEE. No party dealing with the Trustee, in relation to the Trust Property in any manner whatsoever, including, but not limited to, a party to whom the Trust Property or any part of it or any interest in it shall be conveyed, contracted to be sold, leased or mortgaged, by the Trustee, shall be obliged to see to the application of any purchase money, rent or money borrowed or otherwise advanced on the property; to see that the terms of this Trust Agreement have been complied with; to inquire into the authority, necessity or expediency of any act of the Trustee; or be privileged to inquire into any of the terms of this Trust Agreement. Every deed, mortgage, lease or other instrument executed by the Trustee in relation to the Trust Property shall be conclusive evidence in favor of every person claiming any right, title or interest under the Trust that at the time of its delivery the Trust created under this Agreement was in full force and effect; and that the instrument was executed in accordance with the terms and conditions of this Agreement and all its amendments, if any, and is binding upon all Beneficiaries under it; that the Trustee was duly authorized and empowered to execute and deliver every such instrument; if a conveyance has been made to a successor or successors-in-trust, that the successor or successors have been appointed properly and are vested fully with all the title, estate, rights, powers, duties and obligations of its, his or their predecessor in Trust.

12. BENEFICIARIES. The Beneficiaries are the persons or legal entities identified, along with their respective interests, on Schedule "C" which is attached hereto and made a part hereof.

The Beneficiaries are entitled to all of the profits, earnings, avails and proceeds of the Trust Property.

13. INTEREST OF BENEFICIARIES. The interests of the beneficiaries shall consist solely of (a) the right to lease, manage and control the Trust Property; (b) the right to direct the Trustee with regard to the disposition of the title to the Trust Property; and (c) the right to receive the profits, earnings, avails and proceeds from the rental, sale, mortgage or other disposition of the Trust Property.

The foregoing rights of the Beneficiaries are hereby declared to be personal property and may be assigned or otherwise transferred as such. The death of any Beneficiary shall not affect the existence of the Trust nor in any way diminish or alter the powers of the Trustee. No Beneficiary shall have any right, title or interest, whether legal or equitable, in the real property which is held as Trust Property. No Beneficiary shall have the right to require partition of the Trust Property.

The Beneficiaries shall not use the name of the Trustee for advertising or other publicity purposes without first obtaining the written consent of the Trustee.

The Beneficiaries shall be required to carry liability insurance in such forms and in such amounts as the Trustee, in his sole discretion, shall deem necessary to insure the Trust Property and the Trustee. If the Beneficiaries fail to obtain or maintain the required insurance policies, then the Trustee shall have the right, in his sole discretion, to advance the money necessary to pay for said insurance policies. The Beneficiaries will reimburse the Trustee for the insurance as set forth above in Paragraph 5.

No Beneficiary shall have right to bind or otherwise contract for any other Beneficiary except as provided for elsewhere under this Agreement.

14. ASSIGNMENT OF BENEFICIAL INTERESTS. The Beneficiaries have the right to assign any part or all of their interests under this Trust. No assignment shall be valid or affect the interest of a Beneficiary hereunder until the original of the assignment shall be delivered to the Trustee and the Trustee's acceptance acknowledged thereon. The Trustee shall revise and update Schedule "C" as necessary. Any assignment of the right to direct the Trustee by a person who is not a Beneficiary hereunder shall not be valid unless all of the Beneficiaries consent in writing to said assignment.

15. DISCLOSURE OF BENEFICIARIES. The Trustee and the Beneficiaries shall not disclose the identity of any Beneficiary without the written consent of said Beneficiary except as may be required by law or at the direction of an order of court issued by a court of competent jurisdiction. Any party who discloses the identity of a Beneficiary shall be personally liable for any and all losses and damages incurred by that Beneficiary as a result of the disclosure.

16. RECORDING OF AGREEMENT. This Land Trust Agreement shall not be placed of record in any jurisdiction. If this agreement is placed of record, then it shall not be notice of any interest which may affect the title or the powers of the Trustee.

17. **ENTIRE AGREEMENT.** This Land Trust Agreement contains the entire understanding between the parties hereto and may be amended, revoked or terminated only by written agreement signed by the Trustee and all of the Beneficiaries at the time of the amendment, revocation or termination.

18. **GOVERNING LAW.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of MISSISSIPPI. In the event that litigation shall arise between parties to this Agreement, then it is agreed that the losing parties shall reimburse the prevailing parties for all of those parties' reasonable attorneys' fees, costs and expenses in addition to any other relief to which the prevailing parties may be entitled.

19. **BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the Trustee, any successor trustee, the Beneficiaries, and the Beneficiaries' successors, heirs, executors, administrators and assigns.

20. **ANNUAL STATEMENTS.** The Trustee shall be required to furnish annual statements to the Beneficiaries of the income and expenses of the Trust for each calendar year. The statements shall be provided to the Beneficiaries no later than March 1st of the following year.

21. **PERPETUITIES.** If any portion of the Trust Property is in any manner or time period capable of being held in this Land Trust for longer period of time than is permitted under the laws of the state law governing this Land Trust Agreement (See Paragraph 18), or the vesting of any interest under this Land Trust could possibly occur after the end of such permitted time period, then, upon the occurrence of the foregoing, the Trustee is directed to immediately terminate the Trust and to distribute the Trust Property to the Beneficiaries as their respective interests may appear at the time of the termination of the Trust. As much as possible, the Trustee will maintain the Trust Property intact and not liquidate it, but, rather, distribute the Trust Property in kind.

22. **TERMINATION.** This Trust may be terminated thirty (30) days or more after the date upon which all of the Beneficiaries agree in writing to said termination. The Beneficiaries shall immediately give the Trustee written notice of the effective date of termination. The Trustee shall execute any and all documents necessary to effectuate the transfer of the Trust Property to the Beneficiaries as their interests may appear.

23. **NOTICE.** Any notice that is given in connection with this Land Trust Agreement shall be given (a) to the Beneficiaries at the address set forth in Schedule "C" as shall be changed from time to time upon notice to the Trustee from the Beneficiaries; and (b) to the Trustee at such address as he may hereafter specify. The notice shall be deemed to be validly given if personally delivered or mailed to a person by first class mail, postage prepaid, at the above specified address.

IN WITNESS WHEREOF, we have executed this Land Trust Agreement on the day and year first above written.

WITNESS:

Julie Louise Austin

Julie Louise Austin

Mary Moten

BENEFICIARIES:

Reynold H. Wiggins

Melanie D. Wiggins

TRUSTEE:

Jean Miller

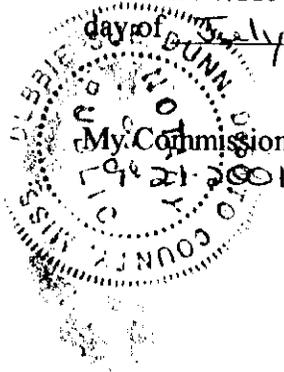
ACKNOWLEDGMENTS

STATE OF MISSISSIPPI

COUNTY OF DESOTO

Before me, the undersigned officer in and for said county and state, personally appeared Charles L. Wiggins Jr and Melanie D. Wiggins, known to me (or satisfactorily proven) to be the person(s) whose name(s) are/is subscribed to the foregoing instrument and acknowledged that he/she/they executed the same for the purposes contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 29th day of July, 1998.



My Commission expires:

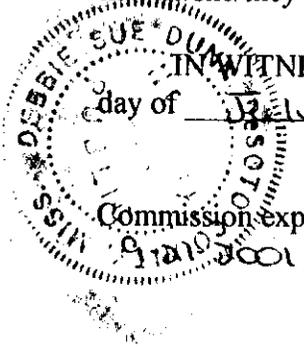
Sue Dunn  
Notary Public

STATE OF MISSISSIPPI

COUNTY OF DESOTO

Before me, the undersigned officer in and for said county and state, personally appeared Jeannie Miller, known to me (or satisfactorily proven) to be the person(s) whose name(s) are/is subscribed to the foregoing instrument and acknowledged that he/she/they executed the same for the purposes contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 29th day of July, 1998.



Commission expires:

Sue Dunn  
Notary Public

## SCHEDULE "A"

The following is the legal description of the Trust Property contained in the foregoing Land Trust.

Lot 8, Section A, Kentwood Subdivision, in Section 3, Township 2 South, Range 8 West, DeSoto County, Mississippi, as shown by plat thereof recorded in Plat Book 39, Pages 4-5, in the office of the Chancery Clerk of DeSoto County, Mississippi.

## SCHEDULE "B"

The following are the addresses of the real estate which is Trust Property:

1. 2830 BRACHTON COVE W.  
HORN LAKE, MISSISSIPPI 38637

## SCHEDULE "C"

The following are all of the Beneficiaries who own all of the beneficial interest in the foregoing Land Trust:

Name:

Address:

Percentage of Interest:

CHARLES L. WIGGINS, JR  
2800 BRACHTON COVE W.  
HORN LAKE, MISSISSIPPI 38637

MELANIE D. WIGGINS  
2800 BRACHTON COVE W.  
HORN LAKE, MS 38637

50 PERCENT PER BENEFICIARY

SCHEDULE "D"

The Trustee will be compensated in the following manner:

The Trustee will be paid according to his or her usual schedule of fees for such services as are provided.