

788 484

This Deed of Trust requires such other and further advances as may be made to complete the construction contemplated in a construction loan agreement of even date herewith, whether such sums are advanced before or after default and whether such sums in the aggregate exceed the principal amount of the Note.

In addition to the above described indebtedness, this instrument also shall secure any and all other existing indebtedness or other obligations of every kind and description, however arising, as Maker to Bank, or as Guarantor to Bank or as Joint Venturor or Maker or Guarantor to Bank, now existing or hereafter contracted, and whether several, joint or joint and several liability.

Holder and owner of the indebtedness herein described, its successors and assigns, agrees to release from the lien of this deed of trust any one of the aforescribed lots upon payment to said holder of any amount equal to the advances made on said lot plus interest accrued thereon. The amount of any such payment shall be applied first to accrued interest and then to principal. Interest shall accrue on the release price until the date of receipt thereof by said holder. This release privilege is conditional upon there being no default in the performance of the aforescribed construction loan agreement, this deed of trust and/or the note(s) secured hereby at the time a release is sought. The release of the lien of this deed of trust shall be made at the expense of the borrower, its successors, assigns or heirs.

This is a Construction Loan, and should the improvements be left in any condition, at the time when the contract according to its terms is to be completed, or if completed subject to any unpaid bills for labor or material, such condition shall constitute an event of default, and the entire secured indebtedness shall in the event become accelerated for the purposes of foreclosure at the option of the holder, who shall not be required to give any notice other than the advertisement for foreclosure provided herein.

It is understood and agreed that the lien of this Deed of Trust shall have priority at all times over any and all mechanic's, furnishers' and materialmen's liens, and mortgage and/or holder of the note does not consent to any contract for labor and materials within the meaning of T.C.A. Section 66-11-108. It is stipulated and agreed that no contract for labor or material will be let by Borrower except with express stipulation that the mechanics' and materialmen's liens therefore shall at all times be subordinate to the lien of this Deed of Trust.

The party of the first part desires to secure and make certain the payment of said indebtedness, and of any and all renewals and extensions thereof. Now, therefore, the party of the first part agrees and binds himself that so long as any part of the indebtedness aforesaid shall remain unpaid, he will pay all taxes and assessments against said property promptly when due, and deposit all tax receipts with the holder of the greater portion of the outstanding indebtedness secured hereby; will insure the buildings on said property for not less than the lesser of (1) the insurable value hereof or (2) the total indebtedness secured by mortgages, deeds of trust or other security instruments encumbering the aforescribed real estate against loss or damage by fire and the perils against which insurance is afforded by extended coverage endorsement in some insurance company or companies approved by the holder of the greater portion of the outstanding indebtedness secured hereby. Cause said policies to contain a standard mortgage clause in favor of the holder of said indebtedness and deposit said policies with the holder of the greater portion of the outstanding indebtedness secured hereby as further security for said debt; will protect the improvements on said property by proper repairs, and maintain them in good repair and condition; will not do anything to suffer or permit anything to be done whereby the lien of Deed of Trust might or could be impaired; will pay such expenses and fees as may be necessary in the protection of the property and the maintenance and execution of this trust, including, but not limited to, expenses incurred by the Trustee in any legal proceeding to which he is made or becomes a party. The net proceeds from the taking of all or any part of the property by eminent domain, or from any sale in lieu thereof, shall be applied upon the indebtedness in inverse order of its maturity; and in the event of the destruction of the improvements by fire

or other casualty, the net proceeds of the insurance shall be applied upon the indebtedness secured hereby in inverse order of its maturity, or at the option of the first part, its heirs and assigns, such proceeds may be used to restore the improvements to their former condition.

The owner of any part of the indebtedness aforesaid may, at his discretion, advance and pay such sums as may be proper to satisfy taxes, maintain insurance and repairs, and protect and preserve the property; and such amounts so paid shall be held and treated as part of the expenses of administering this trust, shall be repaid on demand with interest at the highest rate legally chargeable on the date of the advance, and shall be secured by the lien of this Deed of Trust.

If the said party of the first part shall pay said indebtedness when due, and shall pay such sums as shall be necessary to discharge taxes and insurance and repairs and cost, fees and expenses of making, enforcing and executing this trust, when they shall severally be due and payable, then this conveyance shall become void, and the owner of the indebtedness shall execute proper deed of release or enter marginal satisfaction on the record of this deed of trust, or in the alternative, the Trustee shall reconvey by quit claim the property herein described, all at the expense of the said party of the first part.

This deed of trust secured not only advances made at closing but is also intended to secure future advances as agreed to by the party of the first part and the named lender. The parties have agreed for the future advances and intend that such advances have priority over any other loans, encumbrances or liens that may be placed on the property.

But if said party of the first part shall fail to pay any part of said indebtedness, whether principal or interest, promptly when the same becomes due, or shall fail to pay any sum necessary to satisfy and discharge taxes and assessments before they become delinquent, or to maintain insurance or repairs, or the necessary expense of protecting the property and executing this trust, then, or in either event, all of the indebtedness herein secured shall at the option of the owner of any of said indebtedness and without notice, become immediately due and payable, principal and interest, and the said Trustee is hereby authorized and empowered to enter and take possession of said property, and before or after such entry to advertise the sale of said property for twenty one days by three weekly notices in some newspaper published in the County or Counties in which the land described in this deed of trust is situated, and sell the said property for cash to the highest bidder, free from equity of redemption, statutory right of redemption, homestead, dower, and all other rights and exemptions of every kind, all other rights and exemptions of every kind, all of which are expressly waived, and said Trustee shall execute a conveyance to the purchaser in fee simple, and deliver possession to the purchaser, which the party of the first part binds himself shall be given without obstruction, hindrance or delay.

The owners of any part of the indebtedness hereby secured may become the purchaser at any sale under this conveyance.

If the notes secured hereby are placed in the hands of any attorney for collection, by suit or otherwise, or to enforce their collection by foreclosure or to protect the security for their payment, the party of the first part will pay all costs of collection and litigation, together with an attorney's fee as provided in said notes, or, if none is so provided, a reasonable attorney's fee, and the same shall be a lien on the premises herein conveyed and enforced by a sale of the property as herein provided.

The proceeds of any sale shall be applied as follows: first to the payment of the expenses of making, maintaining and executing this trust, the protection of the property, including the expense of any litigation and attorney's fees, and the usual commissions to the Trustee; second, to the payment of the indebtedness herein secured or intended so to be, without preference or priority of any part over any other part, and any balance of said indebtedness remaining unpaid shall be the subject of immediate suit; and third, should there be any surplus, the Trustee will pay it to the party of

the first part, or his assigns. In the event of the death, refusal, or of inability for any cause, on the part of the Trustee named herein, or of any successor trustee, to act hereunder, or for any other reason satisfactory to the owner of said indebtedness, the owner or owners of the majority of the outstanding indebtedness aforesaid are authorized either in their own name or through an attorney or attorneys in fact appointed for that purpose by written instrument duly registered, to name and appoint a successor or successors to execute this trust, such appointment to be evidenced by writing, duly acknowledged; and when such writing shall have been registered, the substituted trustee named therein shall thereupon be vested with all the right and title, and clothed with all the power of the Trustee named herein and such like power of substitution shall continue so long as any part of the indebtedness secured hereby remains unpaid. The party of the first part, for himself, his heirs, representatives, successors and assigns, covenants and agrees that at any time after default in payment of any of the indebtedness hereby secured, or upon failure to perform any of the covenants to be kept and performed by him, said Trustee may enter upon and take possession of said property and collect the rents and profits therefrom with payment of such to the Trustee after default being full acquittance to the tenant, but the Trustee shall be required to account only for the net rents received by him; and from and after the conveyance of said property under this Deed of Trust, the party of the first part, and all persons under him, shall at the option of the purchaser, be and become the tenants at will of the purchaser, at a reasonable monthly rental, commencing with the date of delivery of the Trustee's Deed.

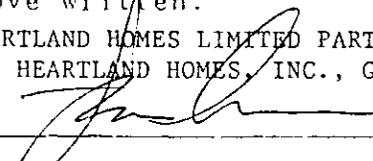
In the event that more than one Trustee be named herein, any one of such Trustees shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of said property. In the event that more than one Trustee be named herein and the substitution of a trustee shall become necessary for any reason, the substitution of one trustee in the place of those or any of those named herein shall be sufficient. The term "Trustee" shall be construed to mean "Trustees" whenever the sense requires. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

No waiver by the party of the second part or by the holder of the indebtedness secured hereby shall be construed as a waiver of a subsequent similar default or any other default by the party of the first part.

The singular number may be construed as plural, and the plural as singular, and pronouns occurring herein shall be construed according to their proper gender and number, as the context of this instrument may require.

IN WITNESS WHEREOF, the party of the first part has executed, this instrument on the day and year first above written.

HEARTLAND HOMES LIMITED PARTNERSHIP
BY: HEARTLAND HOMES, INC., GENERAL PARTNER

BY: 

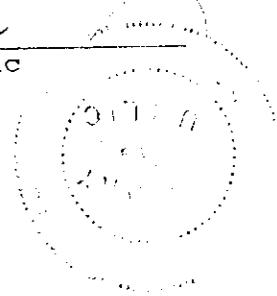
STEVE SALEM, VICE PRESIDENT

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Steve Salem, with whom I am personally acquainted and who, upon oath, acknowledged himself to be the Vice-President of Heartland Homes, Inc., the within named bargainer, a corporation, in that he as such Vice-President being authorized so to do, executed the foregoing instrument for the purposes contained therein by signing the name of the corporation by himself as such Vice-President.

Further, Steve Salem, as Vice-President, of Heartland Homes, Inc. acknowledged said corporation to be the General Partner of Heartland Homes Limited Partnership, the within named bargainer, a limited partnership, and that it as such General Partner, executed the foregoing instrument for the purpose contained therein, by signing the name of the partnership by itself as General Partner.

Witness my hand and seal, this 28th day of September, 1995

Lisa C. Bask
Notary Public



My Commission Expires: 1-29-96

PREPARED BY AND RETURN TO:
FIDELITY TITLE & ESCROW, INC.
1709 KIRBY PARKWAY
MEMPHIS, TN 38120
(901) 755-5400

Mortgagee:
B.O.P., L.L.C.
9701 N. Broadway Ext.
Oklahoma City, OK 73114
(405) 840-3371

Mortgagor:
Heartland Homes
2753 Wendenhall Rd. S.
Memphis, TN 38115
(901) 363-5016