

STATE OF NORTH CAROLINA

COUNTY OF ... Forsyth

CONSTRUCTION DEED OF TRUST

52

THIS INDENTURE, made and entered into this the 6th day of March, 1989, by and between Woodgrove Associates, a General Partnership of Davidson County, State of North Carolina, party of the first part (whether one or more persons or corporations), hereinafter called the "Borrower," and SERVO FINANCIAL SERVICES, INC. Trustee, party of the second part, hereinafter called the "Trustee", and PREFERRED SAVINGS BANK, INC., a corporation organized and existing under the laws of the State of North Carolina, party of the third part hereinafter called the "Beneficiary";

WITNESSETH, THAT WHEREAS, the Beneficiary has agreed to lend to the Borrower and has earmarked for the benefit of the Borrower, the sum of One Hundred Sixty Thousand Eight Hundred and 00/100 Dollars (\$160,800.00), to be advanced from time to time in installments as justified by the progress of construction, for the purpose of constructing a building or buildings or other improvements (hereinafter referred to as "Improvements") in accordance with the plans and specifications approved, or to be approved, by the Lender, on the premises hereinafter described, under a written agreement between the Lender and the Borrower of even date herewith, hereinafter referred to as the "Construction Loan Agreement" the total amount of said loan being evidenced by the note of the Borrower of even date herewith, payable with interest, as, and at the rate specified in the note:

AND WHEREAS, the Borrower desires to secure the performance of said Construction Loan Agreement and to secure the payment of said note with interest and any renewal or extension thereof, in whole or in part, by a conveyance of the property hereinafter described:

AND WHEREAS, the disbursements to be made under the note referred to above are obligatory upon Beneficiary as provided in the Construction Loan Agreement. This Deed of Trust shall further secure additional optional future advances to Borrower by Beneficiary to be made over a period of not more than ten (10) years from the date hereof. The maximum amount to be secured hereby, including any amount presently secured, the obligatory advances referred to above and the additional optional advances, shall not exceed at any one time the sum of \$321,600.00. The present amount secured hereby is \$30,100.00. Wherever the word "note" is used hereafter, said word shall include any additional note executed by Borrower as evidence of future obligations secured hereby;

NOW THEREFORE, in consideration of the premises and for the purposes aforesaid, and in further consideration of the sum of One Dollar (\$1.00) paid to the Borrower by the Trustee, receipt of which is hereby acknowledged, the Borrower has given, granted, bargained and sold, and by these presents does give, grant, bargain, sell and convey unto the said Trustee, its successors and assigns, the following described lot or parcel of land lying and being in Winston Township, County of Forsyth, and State of North Carolina, and more particularly described as follows:

BEING KNOWN AND DESIGNATED AS Lot Number 86 as shown on the recorded Plat entitled "Glenridge, Phase I, Section One" recorded in Plat Book 30, Page 200, Forsyth County Registry, reference to which plat is hereby made for a more particular description.

Together with all buildings and improvements now or hereafter located on the aforesaid real estate, and together with all gas, electric, and plumbing fixtures and apparatus, boilers, furnaces, ranges, heating, lighting and air conditioning equipment, and any and all other fixtures installed or to be installed in the buildings and improvements whether or not herein enumerated, all of which (including any additions thereto or replacements thereof) shall be deemed to be a part of the realty and a portion of the security for the indebtedness hereby secured.

TO HAVE AND TO HOLD the aforesaid property unto the said Trustee, and its successors, in fee simple but upon this trust:

That if Borrower shall fully discharge Borrower's covenants and agreements set out in this Deed of Trust, in the Note secured hereby, and in the Construction Loan Agreement bearing the same date as this Deed of Trust, this Deed of Trust shall become void upon fulfillment and Borrower shall be entitled to a cancellation hereof in the Office of the Register of Deeds wherein this Deed of Trust is recorded, but if an Event of Default, as defined herein or in the Construction Loan Agreement, shall occur and the default be not cured within ten (10) days after notice thereof is mailed (as provided in the Construction Loan Agreement), Beneficiary may declare the entire indebtedness secured hereby immediately due and payable and may request Trustee to enforce the lien of this Deed of Trust by foreclosure. Thereupon and immediately, Trustee shall begin a foreclosure proceeding by action or under the power of sale which is hereby specifically vested in Trustee. If Trustee shall elect to sell under the power of sale hereby granted such sale shall be conducted under and in compliance with the requirements of the General Statutes of North Carolina, Chapter 45, Article 2A in effect as of the date hereof, subject only to the following agreed provisions:

(a) Subsequently enacted amendments or revisions of said Chapter (or other Chapters governing real estate foreclosure sales under power of sale) which establish obligatory requirements for such sales shall be fully complied with by Trustee.

(b) The auction sale shall be conducted at such place as Trustee shall specify in the public notice of sale, which place shall be the place where, in Trustee's opinion, such sales are usually and regularly conducted in this county.

(c) In the event a foreclosure proceeding is begun but terminated prior to completion thereof, Borrower shall pay all expenses of the proceeding including a Trustee's fee of three (3%) per cent of the then principal balance of the loan if this proceeding is terminated prior to the first public auction sale and four (4%) per cent of such balance if terminated after the first public auction. Should the foreclosure proceeding be completed and a Trustee's deed delivered to the high bidder, all expenses, including a Trustee's fee of seven (7%) per cent of the bid price, shall be first paid from the proceeds of the sale.

Borrower's Covenants and Agreements. Borrower covenants and agrees with Beneficiary (and, where appropriate, with Trustee):

1. That the aforesaid Note, bearing the same date as this Deed of Trust, has been executed by Borrower and delivered to Beneficiary, is incorporated herein by reference and requires payment in full of the secured indebtedness on demand, but in no event later than the6..... day ofMarch....., 19.90..

2. That the aforesaid Construction Loan Agreement has been signed by Borrower and Beneficiary, is incorporated herein by reference and is hereby ratified and confirmed by Borrower as an agreement fully binding on Borrower.

3. That in the event Borrower causes or permits any Event of Default to occur, Beneficiary, immediately and without notice while such default (or other default) exists, and without liability therefor to Borrower except for gross negligence, may do or cause to be done any or all of the following: (1) it may take physical possession of the premises conveyed hereby; (2) it may collect the rents and profits derived from said property; (3) it may enter into contracts for the completion, repair or maintenance of the improvements thereon; (4) it may expend any loan funds and any rents, income and profits derived from the security property for payment of any taxes, insurance premiums, assessments and charges for completion, repair and maintenance of the improvements, for the preservation of the quality of the first priority lien intended to be established hereby and for the satisfaction and fulfillment of any liabilities or obligations of Borrower arising out of or in any way connected with the construction of improvements on the security property whether or not such liabilities and obligations in any way affect, or may affect, the lien of this Deed of Trust; (5) it may enter into leases, written or oral, for any term, with any prospective tenants and (6) generally, it may supervise, manage and contract with reference to the security property as if Beneficiary were the equitable owner of said property.

Any of the foregoing rights and privileges of Beneficiary may be exercised at any time, and independently of the exercise of any other such rights and privileges, and Beneficiary may continue to exercise any or all such rights and privileges until the default or defaults of Borrower are cured with the consent of Beneficiary or until this Deed of Trust is foreclosed and the property conveyed to the high bidder.

4. That Beneficiary's representations to third parties (including Borrower) that a default exists shall be conclusive and irrefutable proof of such fact insofar as the right and authority of such third parties to rely upon Beneficiary's representations are concerned, and those obligations incurred by Beneficiary which are within the contemplation of Paragraph 3 hereof shall be fully binding upon Borrower, with the loan funds advanced in payment of such obligations fully secured hereby.

5. That if Borrower shall request and obtain from Beneficiary a loan of money in excess of the principal sum secured hereby and evidenced by the promissory note, or if Borrower shall cause or permit an Event of Default to occur, after which Beneficiary shall elect to undertake the completion, reparation or maintenance of the improvements on the security property and shall determine that funds in excess of the aforesaid principal sum are required for such purpose, then in either event, Beneficiary may disburse additional funds to Borrower, or for the account of Borrower, or in payment of debts incurred in the completion, reparation or maintenance of the improvements, and all such sums so advanced in excess of the aforesaid principal sum evidenced by the secured Note shall become additional principal indebtedness owed by Borrower to Beneficiary, shall bear interest from the date of each disbursement at the rate provided in the Note to be paid on the original principal indebtedness, shall be payable, as to both principal and interest, as provided in the note and shall be secured by the lien of this Deed of Trust.

6. That Borrower may not convey as loan security, or otherwise, the herein described premises, any part thereof, or any interest therein, without the prior written consent of Beneficiary and any such conveyance shall constitute an Event of Default hereunder. If Beneficiary shall consent to any such conveyance, Borrower's grantee(s) and successor(s) in title, by accepting title, shall be deemed to have assumed the obligations of repayment of the indebtedness hereby secured and from the date of such transfer of title shall have joint and several liability to Beneficiary with Borrower and grantee's other predecessors in title.

7. That in the event Borrower hereafter alleges that Beneficiary has become indebted to Borrower or is otherwise obligated to Borrower by way of credits, offsets, assignments of claims, breaches of contract, or otherwise, Borrower shall not be privileged to credit such alleged indebtedness or other obligations against the note hereby secured and may neither plead such alleged indebtedness or other obligations as a defense in a suit by Beneficiary to foreclose nor as the grounds for a suit by Borrower to enjoin the foreclosure of this Deed of Trust.

8. That no release by Beneficiary of any of Borrower's successors in title from liability on the obligation secured hereby, no release by Beneficiary of any portion of the security property, no subordination of lien, no forbearance on the part of Beneficiary to collect the debt hereby secured, or any part thereof, no waiver of any right granted or remedy available to Beneficiary and no action taken or not taken by Beneficiary or others, shall in any way diminish Borrower's obligations to Beneficiary or have the effect of releasing Borrower herein named, or any successor Borrower, from full liability to Beneficiary for the complete discharge of each and every of Borrower's obligations hereunder and under the other Security Documents; it being the express intention of the parties, and particularly of Borrower for the benefit of Beneficiary, that the provisions of the General Statutes of North Carolina, Chapter 45, Section 45.1 shall be inoperative insofar as this Deed of Trust and the Note secured hereby are concerned.

9. That Borrower affirms Beneficiary's authorization to disburse loan proceeds to Borrower's duly authorized agent named in the Construction Loan Agreement, and, in addition, hereby authorizes and empowers Beneficiary to disburse the proceeds of this loan, or any part thereof, to any person, firm or corporation executing this Deed of Trust, with the receipt thereof by any one Borrower to be a full and complete receipt and acquittance in the hands of Beneficiary.

(10) That Borrower, if an individual or individuals, is of age and competent to transact business of this nature, and, if a firm or corporation, said Borrower is validly and presently constituted as such, being legally formed and existing, with the power to execute these presents through those individuals who, with full authority of Borrower, have hereinbelow purported to act on its behalf.

(11) That if Borrower is husband and wife conveying the separate property of one of such spouses, the other spouse joins in the execution hereof for the purpose of waiving his or her elective life estate but both spouses are jointly and severally liable for repayment of the note if both are signatory parties thereto.

(12) That Borrower is seized of the herein described premises in fee and has the right to convey the same in fee simple; that the premises are free and clear of all liens and encumbrances; and Borrower will forever warrant and defend the title to said premises against the claims of all persons whomsoever.

Mutual Covenants and Agreements. Borrower, Beneficiary and Trustee covenant and agree, each with the others as follows:

(a) That if, for any reason, Beneficiary shall elect to substitute for the Trustee herein named (or for any successor to said Trustee), said Beneficiary shall have the right to appoint successor(s) Trustee by written instrument duly acknowledged so as to entitle same to record in this State, and each new Trustee

immediately upon recordation of the instrument so appointing him shall become successor in title to the property herein conveyed for the uses and purposes of this Deed of Trust, with all the powers, duties and obligations conferred on Trustee in the same manner and to the same effect as though he were named herein as Trustee.

(4) That the singular used herein shall be deemed to include the plural; the masculine deemed to include the feminine and neuter; and the named parties deemed to include their heirs, successors and assigns.

IN WITNESS WHEREOF, the Borrower has executed this indenture the year and day first above written.

J & A INVESTMENTS, INC. a General Partnership
Woodgrove Associates, a N.C. General Partnership

BY: Thomas R. Smith (SEAL) ATTEST:
THOMAS R. SMITH, GENERAL PARTNER/Secretary

BY: Sandra M. Smith (SEAL)
SANDRA M. SMITH, GENERAL PARTNER/President

BY: Dan G. Smith (SEAL)
DAN G. SMITH, GENERAL PARTNER,
Corporate Borrower PRESIDENT

ATTEST:
(Corporate Seal)

BY: Thomas G. Fleming (SEAL)
THOMAS G. FLEMING, GENERAL PARTNER/Secretary

BY: Vicki H. Fleming (SEAL)
VICKI H. FLEMING, GENERAL PARTNER/President

BY: Patricia L. Bell (SEAL)
PATRICIA L. BELL, SECRETARY
INC. a General Partnership

(Name of Corporation)

.....
Secretary

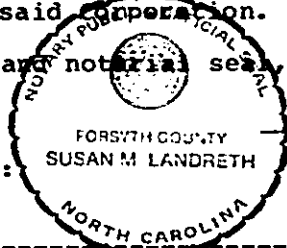
By
President

STATE OF NORTH CAROLINA - COUNTY OF FORSYTH

This 6th day of March, 1989, personally came before me, SUSAN M. LANDRETH, a notary public, THOMAS G. FLEMING, who, being by me duly sworn, says that he knows the Common Seal of VST, INC., A GENERAL PARTNER OF WOODGROVE ASSOCIATES, A NORTH CAROLINA GENERAL PARTNERSHIP, and is acquainted with VICKI H. FLEMING, who is the President of said Corporation, and that he, the said THOMAS G. FLEMING is the Secretary of the said Corporation, and saw the said President sign the foregoing instrument, and saw the Common Seal of said Corporation affixed to said instrument by said President, and that he, the said THOMAS G. FLEMING signed his name in attestation of the execution of said instrument in the presence of said President of said Corporation.

Witness my hand and notarial seal, this the 6th day of March, 1989.

My commission expires:
August 25, 1993



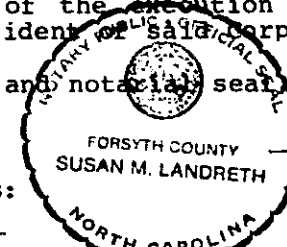
Susan M. Landreth
Notary Public

STATE OF NORTH CAROLINA - COUNTY OF FORSYTH

This 6th day of March, 1989, personally came before me, SUSAN M. LANDRETH, a notary public, THOMAS R. SMITH, who, being by me duly sworn, says that he knows the Common Seal of J & A INVESTMENTS, INC., A GENERAL PARTNER OF WOODGROVE ASSOCIATES, A NORTH CAROLINA GENERAL PARTNERSHIP, and is acquainted with SANDRA M. SMITH, who is the President of said Corporation, and that he, the said THOMAS R. SMITH is the Secretary of the said Corporation, and saw the said President sign the foregoing instrument, and saw the Common Seal of said Corporation affixed to said instrument by said President, and that he, the said THOMAS R. SMITH signed his name in attestation of the execution of said instrument in the presence of said President of said Corporation.

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Notary Public

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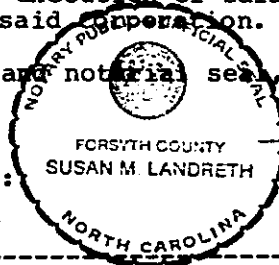
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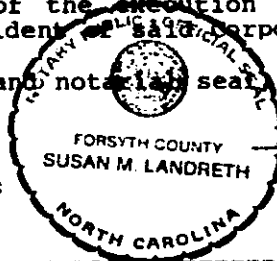
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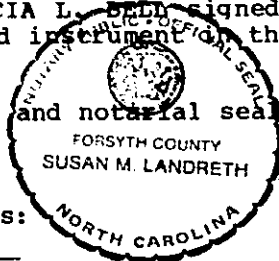
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My commission expires:
August 25, 1993



Susan M. Landreth
Notary Public

STATE OF NORTH CAROLINA - COUNTY OF FORSYTH

The foregoing certificates of SUSAN M. LANDRETH, NOTARY PUBLIC, FORSYTH COUNTY, N.C., are certified to be correct. This the 7th day of March 1989.

L.E. SPEAS - REGISTER OF DEEDS

BY: *Jessie H. Hader*

Deputy/Assistant

1662P1429

RECEIVED
FORSYTH COUNTY
1662P1429

\$14.00

1662P1429