

STATE OF ALABAMA )  
COUNTY OF Shelby )

MORTGAGE AND SECURITY AGREEMENT  
("Mortgage")

This document is also a financing statement filed as a fixture filing pursuant to Ala. Code § 7-9-402(6) (1975), and should be indexed in the index of financing statements under the names of Mortgagor, as debtor, and Mortgagee, as secured party.

☒ (Check box if applicable) This Mortgage is a "construction mortgage" within the meaning of such term in Ala. Code § 7-9-313(i)(c) (1975) and Ala. Code § 7-9-313(6) (1975).

KNOW ALL MEN BY THESE PRESENTS: That whereas

Doug Black Construction, Inc.

has become justly indebted to **FIRST ALABAMA BANK**, an Alabama banking corporation, whose address is P. O. Box 216, Pelham, Alabama 35124 (the "Mortgagee"), in the principal sum of Eighty - Seven Thousand Six Hundred Seventy - Five and no/100----- (\$87,675.00) Dollars, together with interest thereon, as evidenced by one or more promissory notes, guaranties or other documents delivered to, or letters of credit issued by, Mortgagee;

NOW, THEREFORE, in consideration of the premises and in order to secure the payment of said indebtedness (including any future advances) and any renewal or extensions thereof and any other indebtedness now or hereafter owed by any of the above-named to Mortgagee, whether such indebtedness is primary or secondary, direct or indirect, contingent or absolute, matured or unmatured, joint or several, or otherwise secured or not (except a principal dwelling shall not secure any such other indebtedness incurred for personal, family, or household purposes unless a right of rescission has been given or the transaction is otherwise exempt from federal regulations applicable to consumer credit), and to secure compliance with all of the covenants and stipulations hereinafter contained,

(whether one or more, the "Mortgagor") does hereby grant, bargain, sell and convey unto Mortgagee the real property situated in Shelby County, State of Alabama, that is described below or in an attachment or exhibit hereto:

Lot 1, according to the survey of St. Charles Place, as recorded in Map Book 17, Page 6, in the Probate Office of Shelby County, Alabama.  
Situated in Shelby County, Alabama.

1993-28954

09/21/1993-28954  
08:04 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 MCD 147.55

Together with all rents and other revenues thereof and all rights, privileges, easements, tenements, interests, improvements and appurtenances thereunto belonging or in any wise appertaining, including any after-acquired title and easements (collectively, the "Property"), also together with all rights, title and interests now or hereafter owned by Mortgagor in and to all buildings and improvements, windows, doors, heating, lighting, ventilating, air conditioning, refrigerating and cooking apparatus, elevators, plumbing, sprinkling systems, detection devices and other equipment and fixtures now or hereafter attached or appertaining to the Property (collectively, the "Improvements").

TO HAVE AND TO HOLD the same and every part thereof unto Mortgagee, its successors and assigns forever.

And for the consideration aforesaid, and as additional security for all of the indebtedness described above (including any future advances), Mortgagor hereby assigns and transfers to Mortgagee, and grants to Mortgagee a security interest in, all building materials, equipment, fixtures and fittings of every kind or character that improve or are intended to improve the Property, including, without limitation, all lumber, bricks, building blocks, sand, cement, roofing materials, paint, doors, windows, nails, wiring, hardware, plumbing and plumbing fixtures, heating and air conditioning equipment, electrical and gas equipment, piping, decorative fixtures, and in general all building materials, equipment and appliances of every kind and character, wherever located or stored, and whether now owned or hereafter acquired by Mortgagor (collectively, the "Personal Property"); provided, however, that for any consumer credit obligation secured hereby, Mortgagee waives any non-purchase money security interest in "household goods" as defined in federal regulations applicable to unfair or deceptive credit contract provisions and further waives any security interest in "consumer goods" purchased more than twenty (20) days after Mortgagee gives value. The Property, the Improvements and the Personal Property are hereinafter collectively called the "Mortgaged Property."

And for the purpose of further securing the payment of said indebtedness Mortgagee warrants, covenants and agrees with Mortgagee, its successors and assigns as follows:

1. Mortgagor is lawfully seized in fee simple and possessed of the Mortgaged Property and has a good right to convey the same as aforesaid. The Mortgaged Property is free and clear of all encumbrances, easements, and restrictions not herein specifically mentioned. Mortgagor will warrant and forever defend the title to the Mortgaged Property against the claims of all persons whomsoever.

2. Mortgagor shall pay all taxes and assessments upon the Mortgaged Property, as well as all other liens or mortgages taking priority over this Mortgage. If the Mortgaged Property or any part thereof is a unit in a condominium or a planned unit development, Mortgagor shall perform all of Mortgagor's obligations under the declaration or covenants creating or covering the condominium or planned unit development, the bylaws and regulations of the condominium or planned unit development, and any related documents.

3. Mortgagor shall keep the Mortgaged Property continuously insured in such amounts, in such manner, and with such companies as may be satisfactory to Mortgagee against loss by fire and wind (including so-called extended coverage), and other exposed hazards, including such hazards as Mortgagee may specify from time to time, with loss, if any, payable to Mortgagee under a standard mortgagee's clause providing at least 10 days notice to Mortgagee of cancellation of such insurance, and shall deposit with Mortgagee policies of such insurance or, at Mortgagee's election, certificates thereof, and shall pay the premiums therefor as the same become due. Mortgagor shall have the right to provide such insurance through a policy or policies independently obtained and paid for by Mortgagor or through an existing policy. Mortgagee may, for reasonable cause, refuse to accept any policy of insurance obtained by Mortgagor. Mortgagor shall give immediate notice in writing to Mortgagee of any loss or damage to the Mortgaged Property from any cause whatsoever. If Mortgagor fails to keep the Mortgaged Property insured as above specified, Mortgagee, in its sole discretion, may insure the Mortgaged Property for its insurable value against loss by fire, wind and other hazards for the benefit of Mortgagee. The proceeds of any such insurance shall be paid by the insurer to Mortgagee, and Mortgagee is hereby granted full power to settle and compromise claims under all policies, to endorse in the name of Mortgagor any check or draft representing the proceeds of any such insurance, and to demand, receive and give receipt for all sums becoming due thereunder. Any such insurance proceeds, if collected, may either be credited on the indebtedness secured by this Mortgage, less cost of collection, or used in repairing or reconstructing any portion of the Mortgaged Property, as Mortgagee may elect. No application of insurance proceeds received by Mortgagee shall extend or postpone the due date of any installment payments due from Mortgagor or reduce the amount of any such installment payments.

4. Mortgagee, in its sole discretion, may require Mortgagor to establish an escrow account for the payment of yearly taxes, assessments, and other similar charges against the Mortgaged Property or any part thereof, as well as premiums of insurance, all as estimated by Mortgagee to be sufficient to pay the same when due and otherwise in accordance with any applicable statutes or regulations. Such deposits shall not be considered trust funds, but may be commingled with the general funds of Mortgagee, and no interest shall be payable in respect thereto. Upon demand by Mortgagee, Mortgagor shall deliver to Mortgagee such additional monies as are required to make up any deficiencies in the amounts necessary to enable Mortgagee to pay such taxes, assessments, insurance, and similar charges.

5. Mortgagor shall take good care of the Mortgaged Property and shall not commit or permit any waste thereon or thereof, and shall keep the same repaired and at all times shall maintain the same in as good condition as it now is, reasonable wear and tear alone excepted. If Mortgagor fails to make repairs to the Mortgaged Property, Mortgagee, in its sole discretion, may make such repairs at Mortgagor's expense. Mortgagee, its agents and employees, may enter the Mortgaged Property at any reasonable time for the purpose of inspecting or repairing any portion of the Mortgaged Property. Any such inspection or repair shall be for the Mortgagee's benefit only. Mortgagor hereby assigns and grants to Mortgagee a lien upon any and all proceeds received by Mortgagor as a result of defects, structural or otherwise, in the Improvements.

6. All amounts expended by Mortgagee for insurance, or for the payment of taxes or assessments, or to discharge liens or mortgages on the Mortgaged Property or other obligations of Mortgagor, or to make repairs to any portion of the Mortgaged Property (i) shall be payable at once without demand upon or notice to any person, (ii) shall bear interest at the highest rate of interest payable on the principal sum of any document evidencing the indebtedness secured hereby, or if no such rate of interest is specified or if the rate specified therein would be unlawful, at the highest rate per annum permitted by law from the date of payment by Mortgagee, (iii) shall become a debt due Mortgagee additional to the indebtedness herein described, and (iv) shall be secured by this Mortgage.

7. No delay or failure of Mortgagee to exercise any option to declare the maturity of any indebtedness secured by this Mortgage shall be a waiver of the right to exercise such option, either as to past or present defaults on the part of Mortgagor, and the procurement of insurance or payment of taxes or other liens or assessments or obligations by Mortgagee shall not be a waiver of the right to accelerate the maturity of the indebtedness hereby secured by reason of the failure of Mortgagor to procure such insurance or to pay such taxes, liens, assessments or obligations, it being agreed by Mortgagor that no terms or conditions contained in this Mortgage can be waived, altered, or changed except as evidenced in writing signed by Mortgagee and Mortgagor.

8. All indebtedness hereby secured shall be paid and discharged as it shall become due and payable, whether now existing or hereafter incurred.

9. If default shall be made in the payment of any of the indebtedness secured by this Mortgage, or in the performance of any of the terms or conditions hereof, Mortgagee, without notice to Mortgagor, may proceed to collect the rent, income and profits from the Mortgaged Property, either with or without the appointment of a receiver (to which appointment Mortgagor hereby consents), and Mortgagee may notify the lessees or other payors thereof to make payment directly to Mortgagee. Any rents, income and profits collected by Mortgagee prior to foreclosure of this Mortgage, less the costs of collecting the same, including any real estate or property management commissions and attorney's fees and expenses incurred, may be applied to the reduction of the indebtedness secured by this Mortgage in such order and manner as Mortgagee may elect.

10. If all or any part of the Mortgaged Property or any interest therein is sold, assigned, transferred or conveyed by Mortgagor without Mortgagee's prior written consent, then in any such event Mortgagee, in its sole discretion, may declare all indebtedness secured hereby to be immediately due and payable without notice to Mortgagor. Mortgagee may withhold consent in its sole discretion, or condition its consent to any transfer of possession of, or an interest in, the Mortgaged Property upon (i) the transferee's agreeing to pay a greater rate of interest on all or any part of the indebtedness secured hereby or to adjust the payment schedule of all or any part of the indebtedness secured hereby, (ii) Mortgagee's approval of the creditworthiness of the transferee, and (iii) the transferee's payment to Mortgagee of a reasonable transfer or assumption fee, and payment of all recording fees and mortgage taxes.

11. If all or any part of the Mortgaged Property shall be damaged or taken through condemnation (including any damage or taking by any governmental authority or any other authority authorized by the laws of Alabama or the United States of America, or any transfer by private sale in lieu thereof), either temporarily or permanently, the entire indebtedness and other sums secured hereby shall, at the option of Mortgagee, become immediately due and payable. Mortgagee shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of any damage or taking through condemnation and is hereby authorized, in Mortgagee's sole discretion, to commence, appear in and prosecute, in its own or Mortgagor's name, any action or proceedings relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds, and any other payments or reliefs, and the right thereto, are hereby assigned by Mortgagor to Mortgagee, who, after deducting therefrom all its expenses including, without limitation, attorney's fees and expenses, may release any monies so received by it without affecting the lien of this Mortgage or may apply the same, in such order and manner as Mortgagee shall elect, to the reduction of the indebtedness secured by this Mortgage. Any balance of such monies then remaining shall be paid to Mortgagor. Mortgagor agrees to execute such further assignments of any condemnation compensation, awards, damages, rights of action and proceeds as Mortgagee may require.

12. The Mortgaged Property is in compliance, and Mortgagor shall in the future comply and cause the Mortgaged Property to comply, with all applicable federal, state and local environmental laws, ordinances, and regulations (collectively, the "Environmental Laws"). There are no pending claims or threats of pending claims against Mortgagor or the Mortgaged Property by private, governmental or administrative authorities relating to environmental impairment or Environmental Laws. Mortgagor shall not use the Mortgaged Property in a manner which will result in any non-complying disposal or release of any solid waste, hazardous waste, hazardous substance, or other containment (all as defined in the Environmental Laws) (collectively, "Hazardous Materials") in, on or under the Mortgaged Property, and covenants and agrees to keep, or cause the Mortgaged Property to be kept, free of any non-complying Hazardous Materials. The Mortgagee from time to time may inspect, test and sample the Mortgaged Property for compliance with Environmental Laws and may add the cost of same to the principal balance of the indebtedness secured hereby. Mortgagor agrees that Mortgagee, in its sole discretion, may submit a copy of any environmental report or test results to federal and state environmental agencies, or any other governmental agency having regulatory control over the Mortgaged Property. In response to the presence of any such non-complying Hazardous Materials in, on, or under the Mortgaged Property at any time, Mortgagor shall immediately take, at Mortgagor's sole expense, all remedial action required by the Environmental Laws or any judgment, consent decree, settlement or compromise with respect to any claims in connection therewith. If Mortgagor fails to take such remedial action, Mortgagee, in its sole discretion, may take such remedial action and add any and all costs in connection therewith to the principal balance of the indebtedness secured hereby. Mortgagor shall immediately notify Mortgagee in writing of: (i) the discovery of any such non-complying Hazardous Materials in, on, or under the Mortgaged Property; (ii) any knowledge by Mortgagor that the Mortgaged Property does not comply with any Environmental Laws; (iii) any Hazardous Materials claims or conditions; and (iv) the discovery by Mortgagor of any occurrence or condition on any real property adjoining the Mortgaged Property that is likely to cause the breach of the Environmental Laws as to the Mortgaged Property or any part thereof. Mortgagor shall defend, indemnify and hold Mortgagee and its directors, officers, agents and employees harmless from and against all claims, demands, causes of action, liabilities, losses, costs and expenses (including, without limitation, costs of suit, reasonable attorney's fees, fees of expert witnesses, engineering fees, and costs of any environmental inspections, inquiries, audits, evaluations, assessments or other expenses) arising from or in connection with (i) the presence in, on or under the Mortgaged Property of any Hazardous Materials, or any releases or discharges of any Hazardous Materials in, on, under or from the Mortgaged Property; (ii) any activity carried on or undertaken on or off the Mortgaged Property, whether prior to, during, or after the term hereof, and whether by Mortgagor or any predecessor in title or any officers, employees, agents, contractors or subcontractors of Mortgagor or any predecessor in title, or any third persons at any time occupying or present on the Mortgaged Property, in connection with the generation, manufacture, handling, use, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials at any time in, on or under the Mortgaged Property, or (iii) any breach of any representation, warranty or covenant under the terms of this Mortgage. The foregoing indemnity extends to the



Its President

Subdivision		Lot	Plat Book	Page
QQ	Q	S	T	R

SOURCE OF TITLE	
Shelby County Abstract	
BOOK	PAGE

CERTIFICATE

State of Alabama )  
County )

In compliance with Ala. Code § 40-22-2 (1975), the owner of this Mortgage hereby certifies that the amount of indebtedness presently incurred is \_\_\_\_\_ upon which the mortgage tax is paid herewith, and owner agrees that no additional or subsequent advances will be made under this Mortgage unless the Mortgage tax on such advances is paid into the appropriate Judge of Probate office no later than each September hereafter or a document evidencing such advances is filed for record in the above said office and the recording fee and tax applicable thereto paid.

Mortgagor: \_\_\_\_\_  
Date, Time and Volume and  
Page of recording as shown hereon.

Mortgagee: **First Alabama Bank**

By \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF ALABAMA )  
COUNTY OF \_\_\_\_\_ )

INDIVIDUAL ACKNOWLEDGEMENT

I, \_\_\_\_\_, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, \_\_\_\_\_ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Notary Public  
My commission expires: \_\_\_\_\_

STATE OF ALABAMA )  
COUNTY OF \_\_\_\_\_ )

INDIVIDUAL ACKNOWLEDGEMENT

I, \_\_\_\_\_, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, \_\_\_\_\_ executed the same voluntarily on the day the same bears date.

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

Inst # 1993-28954  
09/21/1993-28954  
08:04 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 MCD 147.55

Notary Public  
My commission expires: \_\_\_\_\_

STATE OF ALABAMA )  
COUNTY OF Shelby )

CORPORATE ACKNOWLEDGEMENT

I, the undersigned \_\_\_\_\_, a Notary Public in and for said County, in said State, hereby certify that Doug Black \_\_\_\_\_, whose name as President \_\_\_\_\_ of Doug Black Construction, Inc. \_\_\_\_\_, a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of said conveyance, he \_\_\_\_\_ as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, on the day the same bears date.

Given under my hand and official seal, this 13th day of September, 19 93.

*Donna J. Smith*  
Notary Public  
My commission expires: \_\_\_\_\_

PLEASE RETURN TO:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MORTGAGE  
AND  
SECURITY AGREEMENT

THE STATE OF ALABAMA,  
  
Office of the Judge of Probate  
I hereby certify that the within Mortgage was  
filed in this office for record on this \_\_\_\_\_  
day of \_\_\_\_\_  
19 \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and  
duly recorded in Volume \_\_\_\_\_ of Mortgages,  
at page \_\_\_\_\_.

Judge of Probate

FirstAlabamaBank