

STATE OF ALABAMA)

SHELBY COUNTY)

MORTGAGE

THIS INDENTURE, made and entered into this 29th day of August, 1994, by and between **Covenant Builders, Inc.**, hereinafter referred to as Mortgagor, and **H. Gary Wilkins and Julie A. Wilkins**, hereinafter referred to as Mortgagee.

W I T N E S S E T H:

WHEREAS, Covenant Builders, Inc. is justly indebted to the Mortgagee in the principal sum of Three Hundred Twenty-five Thousand and 00/100 Dollars (\$325,000.00) in lawful money of the United States, as evidenced by that certain promissory note bearing even date herewith executed by Covenant Builders, Inc. in favor of Mortgagee, and to be repaid, in accordance with the terms and conditions as more fully described in said Promissory Note; and

WHEREAS, Covenant Builders, Inc. hereby executes this Mortgage for the purpose of securing the payment of said Promissory Note; and

NOW, THEREFORE, Mortgagor, in consideration of the premises, and to secure the payment of said indebtedness and the compliance with all the stipulations herein contained, has bargained and sold, and does hereby grant, bargain, sell, alien, and convey unto Mortgagee, its successors and assigns, the real estate described as follows, lying and being situated in the County of Shelby, State of Alabama, to-wit:

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SEE EXHIBIT "A" ATTACHED HERETO.

Together with all the rights, privileges, tenements, and appurtenances thereunto belonging or in any wise appertaining, all of which shall be deemed realty and conveyed by this Mortgage.

TO HAVE AND TO HOLD the said premises, and every part thereof, unto the Mortgagee, its successors and assigns forever. And the undersigned covenants with the Mortgagee that the undersigned is lawfully seized in fee simple of said premises and has a good right to sell and convey the same as aforesaid; that the said premises is free of all encumbrances except as noted on **Exhibit "A"** and the undersigned will warrant and forever defend the title to the same unto the Mortgagee, its successors and assigns against the lawful claims of all persons whomsoever.

And for the purpose of further securing the payment of said indebtedness the Mortgagor hereby agrees to pay all taxes, assessments or other liens taking priority over this mortgage, when imposed legally upon said premises, and should default be made in the payment of same, or any part thereof, said Mortgagee, at its option, may pay the same; and to further secure said indebtedness first above named, and every portion thereof, the undersigned agree to keep said property continuously insured in such manner and in such companies as may be satisfactory to the mortgagee, for its insurable value against loss by fire and against loss by tornado, with loss, if any, payable to said mortgagee, as its interest may appear, and if the undersigned fail to keep said property insured

as above specified, then the mortgagee may, at its option, insure said property for its insurable value against loss by fire and tornado, for its own benefit, the proceeds from such insurance, if collected to be credited on the indebtedness secured by this mortgage, less cost of collecting same, or, at the election of the mortgagee, may be used in repairing or reconstructing the premises; all amounts so expended by said Mortgagee for the payment of taxes, assessments, or any other prior liens, shall become a debt due and at once payable, without demand upon or notice to any person, to said Mortgagee, additional to the indebtedness hereby specially secured and shall be secured by the lien of this mortgage, and shall bear interest from date of payment by said Mortgagee, and at the election of the Mortgagee, and without notice to any person, the Mortgagee may declare the entire indebtedness secured by this Mortgage immediately due and payable, and this mortgage subject to foreclosure, and same may be foreclosed, as hereinafter provided.

The Mortgagor agrees to take good care of the premises described herein, and not to commit or permit any waste thereon, and to keep the same repaired, and at all times to maintain the same in as good condition as they now are, reasonable wear and tear alone excepted.

The undersigned agrees that no delay or failure of the Mortgagee to exercise any option to declare the maturity of any debt secured by this Mortgage shall be taken or deemed as a waiver of its right to exercise such option, or to declare such forfeiture, either as to any past or present default, and it is further agreed

that no terms or conditions contained in this mortgage can be waived, altered or changed except as evidenced in writing, signed by the undersigned, and by the Mortgagee.

After any default on the part of the Mortgagor, the Mortgagee shall, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this mortgage, be entitled, as a matter of right, to the appointment by any competent court or tribunal, without notice to any party, of a receiver of the rents, issues and profits of said premises, with power to lease and control the said premises, and with such other powers as may be deemed necessary.

UPON CONDITION, HOWEVER, That if Mortgagor pays said Indebtedness and any renewals or extensions thereof secured by this Mortgage and reimburses said Mortgagee for any amount it may have expended in payment of taxes and insurance or other liens, and interest thereon, and shall do and perform all other acts and things herein agreed to be done, this conveyance to be null and void; but should default be made in the payment of any sum expended by the said Mortgagee under the authority of any of the provisions of this Mortgage, or should said indebtedness hereby secured, and any renewals or extension thereof, or any part thereof, or any interest thereon, remain unpaid at maturity, or should the interest of said Mortgagee in said property become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, then, in any one of said events, all obligations secured hereby shall at once become due at the

option of said Mortgagee, and this mortgage be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages; and the Mortgagee shall be authorized to take possession of the premises hereby conveyed, and after giving twenty-one days' notice by publication once a week for three consecutive weeks, of the time, place and terms of sale, by publication in some newspaper published in the County wherein said property is located, to sell the same in front of the Courthouse door of the County wherein said property is located, at public outcry, to the highest bidder for cash, and apply the proceeds of said sale: First, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; second, to the payment of any amounts that may have been expended, or that may then be necessary to expend, in paying insurance, taxes and other encumbrances, with interest thereon; third, to the payment in full of the principal indebtedness and interest thereon, whether the same shall or shall not have fully matured at the date of said sale; but no interest shall be collected beyond the day of sale; and fourth, the balance, if any, to be turned over to the Mortgagor.

And the Mortgagor further agrees that said Mortgagee, its successors and assigns, may bid at any sale had under the terms of this mortgage, and purchase said property, if the highest bidder therefor; and the Mortgagor further agrees to pay a reasonable attorney's fee to said Mortgagee, its successors and assigns, for the foreclosure of this mortgage, either under the power of sale

contained herein, or by virtue of the decree of any court of competent jurisdiction, said fee to be a debt hereby secured, and the purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money.

In the event of a sale hereunder, the Mortgagee, or owner of the debt and mortgage, or auctioneer, shall execute to the purchaser for and in the name of the undersigned a good and sufficient deed to the property sold.

The undersigned agree that the debt hereby secured shall at once become due and payable and this Mortgage subject to foreclosure herein provided, at the option of the holder hereof, when and if any statement of lien is filed under the statutes of Alabama relating to the liens of mechanics and materialmen, without regard to form and contents of such statement, and without regard to the existence or non-existence of the debt, or any part thereof, or of the lien, on which such statement is based.

Plural or singular words used herein to designate the Mortgagor, shall be construed to refer to the maker or makers of this mortgage, whether one or more persons, or a corporation; and all covenants and agreements herein made by the Mortgagor shall bind the heirs, personal representatives, successors and assigns of the Mortgagor, and every option, right and privilege herein reserved or secured to the Mortgagee, shall inure to the benefit of its successors and assigns.

IN TESTIMONY WHEREOF, the Mortgagor has hereunto set its hand and seal, on this the day of and year first above written.

MORTGAGOR:

COVENANT BUILDERS, INC.

By: Al Collins

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Al Collins, whose name as Vice President of Covenant Builders, Inc. is signed to the foregoing Mortgage and who is known to me, acknowledged before me on this day that being duly informed of the contents of said Mortgage, he, in his capacity as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 29th day of August, 1994.

[Signature]
NOTARY PUBLIC
My Commission Expires: 8-21-95

[NOTARY SEAL]

This Instrument Was Prepared By:

Harold H. Goings
Spain, Gillon, Grooms, Blan & Nettles
2117 Second Avenue North
Birmingham, Alabama 35203

EXHIBIT "A"

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the NE 1/4 of the SE 1/4 and the NW 1/4 of the SE 1/4 of Section 6, Township 19 South, Range 1 West, being more particularly described as follows:

Begin at the Southeast Corner of said NE 1/4 of the SE 1/4 of Section 6, Township 19 South, Range 1 West; thence run in a northerly direction along the East Line of said 1/4 - 1/4 section for a distance of 247.40 feet to an iron; thence turn an angle to the left of 90°33' and run in a westerly direction parallel with the South Line of the NE 1/4 of the SE 1/4 and the NW 1/4 of the SE 1/4 of Section 6, Township 19 South, Range 1 West for a distance of 2101.30 feet to a point on the Southeasterly Right-of-Way Line of Cahaba Valley Road (Highway No. 119); thence turn an angle to the left of 59°52' and run in a southwesterly direction along said right-of-way line for a Deed distance of 286.06 feet (Calculated distance of 286.04 feet); thence turn an angle to the left of 120°08' and run in an easterly direction along said South Line of the NW 1/4 of the SE 1/4 and the NE 1/4 of the SE 1/4 of Section 6, Township 19 South, Range 1 West for a Deed distance of 2242.58 feet (Calculated distance of 2242.52 feet) to the Point of Beginning, containing 537,305.24 Square Feet or 12.33 Acres.

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