

**ALABAMA FORM AMENDMENT (ADDING PROPERTY)**

STATE OF TEXAS \_\_\_\_\_ )  
COUNTY OF TARRANT \_\_\_\_\_ )

AMENDMENT TO  
MORTGAGE  
(Book 1995; Page 2888)

THIS AMENDMENT TO MORTGAGE ("Amendment") is made as of the 11<sup>th</sup> day of January, 1996 by D.R. HORTON, INC. - BIRMINGHAM, a Delaware corporation ("Mortgagee"), in favor of NATIONSBANK, N.A. (SOUTH), a national banking association (successor by merger to NationsBank of Georgia, N.A.), as Administrative Agent for the Banks (as defined in the Mortgage, as hereinafter defined) ("Mortgagor") (the words "Mortgagor" and "Mortgagee" to include their respective heirs, successors and assigns where the context hereof requires or permits);

**WITNESSETH:**

Mortgagor, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) in hand paid by Mortgagee to Mortgagor at and before the delivery of these presents, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby amend that certain Mortgage, Assignment, Security Agreement and Financing Statement by Mortgagor in favor of Mortgagee dated September 25, 1995, and recorded October 11, 1995 (the Mortgage, Assignment, Security Agreement and Financing Statement, as amended and modified, being hereinafter referred to as the "Mortgage"), as hereinafter set forth.

Mortgagor has granted, bargained, sold, aliened, remised, released, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, delivered, set over, warranted and confirmed and by these presents, does hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, deliver, set over, warrant and confirm unto Mortgagee the real estate described in Exhibit A which is attached hereto and incorporated herein by this reference together with all and singular the improvements thereon, and any and all other rights, members, hereditaments, appurtenances, titles, interest, powers, and privileges and other items appurtenant to the aforesaid real estate together with all other rights as described in the Mortgage and included in the terms "Land," "Improvements," "Accessories," "Premises" and "Property" as they may relate to the aforesaid real estate; subject, however, to the "Permitted Encumbrances" as that term is defined in the Mortgage.

To have and to hold all and singular the said premises unto the said Mortgagee, its successors and assigns forever.

The foregoing rights, interest and properties, and all rights, estates, powers and privileges appurtenant thereto shall be included in the definition of "Property" as set forth in the Mortgage. All of the terms, warranties, indemnities and covenants of the Mortgage and the other documents evidencing and securing the loan secured by the Mortgage shall apply to the property described on Exhibit A hereto as though such property was included in the original description of the "Property" in the Mortgage. Mortgagor does hereby bind its successors and assigns to procure

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or execute any further necessary assurances of title to the said premises and also to warrant and forever defend all and singular said premises unto Mortgagee, its successors and assigns and all persons lawfully claiming or to claim the same or any part hereof.

The Mortgage shall otherwise remain in full force and effect in accordance with its terms. Mortgagor hereby reaffirms unto Mortgagee and the Banks all of its indemnities in favor of Mortgagee and the Banks under the documents evidencing, securing and otherwise executed in connection with the loan secured by the Mortgage including, without limitation, the indemnities set forth in the Environmental Indemnity Agreement between Mortgagee, Mortgagor and Banks dated May 2, 1995. Mortgagor acknowledges that Mortgagor has no offsets, claims, counterclaims or defenses to the obligations of Mortgagor or the rights of Mortgagee and the Banks under the Mortgage or the other documents evidencing, securing or otherwise executed in connection with the loan secured by the Mortgage and, to the extent that Mortgagor has any such offsets, claims, counterclaims or defenses with respect to the aforesaid obligations or rights, Mortgagor hereby waives such offsets, claims, counterclaims and defenses. Mortgagee and Mortgagor hereby agree that any amendment to the Mortgage, the sole purpose(s) of which is (are) (a) to subject additional property to the lien of the Mortgage and/or (b) to evidence reaffirmations, acknowledgements and waivers in favor of and for the benefit of Mortgagee and the Banks, which reaffirmations, acknowledgements and waivers are in substantially the same form as the immediately preceding paragraph, shall be valid and enforceable if executed solely by Mortgagor. Except as specifically described in the preceding sentence, the Mortgage may only be amended or modified by a written instrument for that purpose and executed by the party against which enforcement of the amendment or modification is asserted (provided, however, the execution of an instrument by Mortgagee shall be enforceable against the Banks to the extent Mortgagee is permitted to act on behalf of the Banks pursuant to the Loan Documents, as that term is defined in the Mortgage). In the event that any provision of an amendment is not enforceable against Mortgagor or the Banks by virtue of, without limitation, the immediately preceding sentence, such unenforceability shall not affect the other provisions of such amendment to the extent such provisions are for the purposes set forth in (a) and (b) of this paragraph.

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed by a duly authorized officer this 8<sup>th</sup> day of ~~October~~, 1996.

January

NATIONSBANK, N.A. (SOUTH),  
a national banking association (successor by  
merger to NationsBank of Georgia, N.A.),  
as Administrative Agent for the Banks

WITNESSES:

Kim H. Lee  
Melanie Malloy

By:

Henry A. Dyer  
Henry A. Dyer  
Senior Vice President

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed  
by a duly authorized officer this 8<sup>th</sup> day of January, 1996

WITNESSES:

Stacey L. Hamilton  
Julie McMillen

D.R. HORTON, INC. - BIRMINGHAM,  
a Delaware corporation

By: David J. Keller  
David J. Keller  
Vice President



ACKNOWLEDGEMENT OF MORTGAGOR

STATE OF TEXAS

COUNTY OF Tarrant

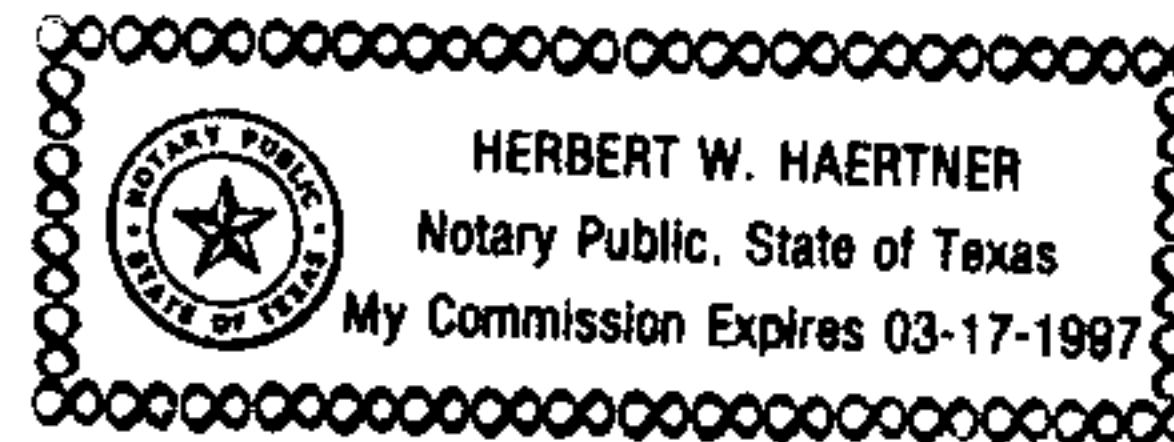
I, the undersigned, a notary public in and for said County in said State, do hereby certify that David J. Keller, who is the Vice President of D.R. HORTON, INC. - BIRMINGHAM, a Delaware corporation (the "Mortgagor"), whose name is signed to the foregoing instrument, and who is known by me and is known by me to be such Vice President, acknowledged before me on this day, being informed of the contents of said instrument, that he, in his capacity as aforesaid, and with full authority, executed the same voluntarily for and as the act of Mortgagor.

Given under my hand and seal of office, this 8 day of January, 1996.

Herbert W. Haertner  
Notary Public

My Commission Expires:

3/17/97



ACKNOWLEDGEMENT OF MORTGAGEE

STATE OF GEORGIA

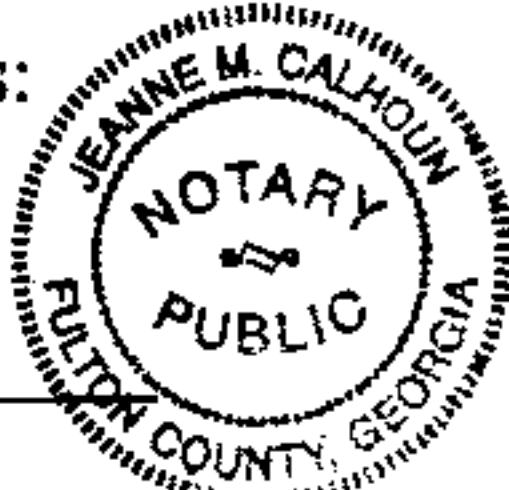
COUNTY OF Fulton

I, the undersigned, a notary public in and for said County in said State, do hereby certify that Henry A. Dyer, who is a Senior Vice President of NATIONSBANK, N.A. (SOUTH) (the "Mortgagee"), whose name is signed to the foregoing instrument, and who is known by me and is known by me to be such Senior Vice President, acknowledged before me on this day, being informed of the contents of said instrument, that he, in his capacity as aforesaid, and with full authority, executed the same voluntarily for and as the act of Mortgagee.

Given under my hand and seal of office, this 9<sup>th</sup> day of January, 1996

Jeanne M. Calhoun  
Notary Public

My Commission Expires:



My Commission Expires  
October 31, 1998

21712775.W51

**Exhibit "A"**

Lot 1, according to the Survey of Heather Ridge, Second Addition, Phase One, as recorded in Map Book 20, page 22 in the Probate Office of Shelby County, Alabama.

**ALSO:**

Lot 61, according to the Survey of Ivy Brook, Phase Two, Second Addition, as recorded in Map Book 20, page 4 in the Probate Office of Shelby County, Alabama.

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