

Please record and return to  
Construction Lending Department  
First Union Mortgage Corporation  
One Jefferson Square  
P.O. Box 10300  
Waterbury, CT 06726-0300

Inst # 1999-34003

08/13/1999-34003  
09:26 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
011 MMS 380.50

(Space Above This Line For Recording Data)

## MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on **August 3, 1999**. The grantor is

**KENNITH MICHAEL EARLY, AND WIFE MELANIE JAMISON EARLY**

("Borrower"). This Security Instrument is given to **FIRST UNION MORTGAGE CORPORATION**, which is organized and existing under the laws of the State of North Carolina, and whose address is 1100 Corporate Center Drive, Raleigh, North Carolina 27607-5066 ("Lender"). Borrower owes Lender the principal sum of

**TWO HUNDRED THIRTY THOUSAND & 00/100s**

**DOLLARS (U.S. \$ 230,000.00)**. This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on **September 1, 2029**. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, and Lender's successors and assigns, with power of sale, the following described property located in **Shelby** County, Alabama

**LOT 1502 ACCORDING TO THE PLAT OF THE 15TH SECTOR, PHASE 1 OF HIGHLAND LAKES, AS RECORDED IN MAP BOOK 23, PAGE 133, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.**

**KENNITH M. EARLY AND KENNITH MICHAEL EARLY ARE ONE AND THE SAME PERSON.**

**MELANIE EARLY AND MELANIE JAMISON EARLY ARE ONE AND THE SAME PERSON.**

which has the address of

**Lot 1502 Highland Park Road, Birmingham, Alabama 35242**  
("Property Address");

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

**1. Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

**2. Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items". Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such cases Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

**3. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

**5. Hazard or Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.



All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

**6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**7. Protection of Lender's Rights in the Property.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of the Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

**8. Mortgage Insurance.** If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.



**9. Inspection.** Lender or its agent may make reasonable entries upon and inspection of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

**10. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

**11. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

**12. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note; (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

**13. Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

**14. Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

**15. Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

**16. Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument.

**17. Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a



natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**18. Borrower's Right to Reinstate.** If Borrower meets certain condition, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

**19. Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A Sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payment due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

**20. Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**21. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give a copy of a notice to Borrower in the manner provided in paragraph 14. Lender shall publish the notice of sale once a week for three

consecutive weeks in a newspaper published in Shelby County, Alabama, and thereupon shall sell the Property to the highest bidder at public auction at the front door of the County Courthouse of this County. Lender shall deliver to the purchaser Lender's deed conveying the Property. Lender or its designee may purchase the Property at any sale. Borrower covenants and agrees that the proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

**22. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

**23. Waivers.** Borrower waives all rights of homestead exemption in the Property and relinquishes all rights of curtesy and dower in the Property.

**24. Riders to this Security Instrument.** If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)].

<input type="checkbox"/> Adjustable Rate Rider	<input type="checkbox"/> Condominium Rider	<input type="checkbox"/> 1-4 Family Rider
<input type="checkbox"/> Graduated Payment Rider	<input checked="" type="checkbox"/> Planned Unit Development Rider	<input type="checkbox"/> Biweekly Payment Rider
<input type="checkbox"/> Balloon Rider	<input type="checkbox"/> Rate Improvement Rider	<input type="checkbox"/> Second Home Rider
<input type="checkbox"/> V. A. Rider	<input checked="" type="checkbox"/> Other(s) [specify] <b>LEGAL DESCRIPTION and</b>	

**CONSTRUCTION RIDER TO FIXED RATE NOTE AND MORTGAGE**

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

_____	<u>Kenneth Michael Early</u> (Seal)	
_____	<b>KENNITH MICHAEL EARLY</b>	-Borrower
_____	<u>Melanie Jamison Early</u> (Seal)	
_____	<b>MELANIE JAMISON EARLY</b>	-Borrower
_____ (Seal)	_____ (Seal)	-Borrower
-Borrower		

STATE OF ALABAMA,

JEFFERSON County ss:

, On this 3RD day of  
AUTHORITY

AUGUST, 1999, I, THE UNDERSIGNED  
, a Notary Public in and for said county and in said state, hereby certify that

**KENNITH MICHAEL EARLY, AND WIFE MELANIE JAMISON EARLY**

, whose name(s) is / are signed to the foregoing conveyance, and who is / are known to me, acknowledged before me that, being informed of the contents of the conveyance, he / she / they executed the same voluntarily and as THEIR act on the day the same bears date.

Given under my hand and seal of office this 3RD day of AUGUST, 1999.

My Commission Expires: 10/21/99

Notary Public ANTHONY D. SNABLE

This instrument was prepared by:

**ANTHONY D. SNABLE, ATTORNEY**  
1629 11TH AVENUE SOUTH  
BIRMINGHAM, ALABAMA 35205



## PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this **August 3, 1999** and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to **FIRST UNION MORTGAGE CORPORATION** (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

**Lot 1502 Highland Park Road, Birmingham, Alabama 35242**

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in

### COVENANTS, CONDITIONS AND RESTRICTIONS AS OF RECORD APPEAR

(the "Declaration"). The Property is a part of a planned development known as

### HIGHLAND LAKES

(the "PUD"). The Property also include Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

**PUD COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. **PUD Obligations.** Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the: (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

B. **Hazard Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts, for the periods, and against the hazards Lender requires, including fire and hazards included within the term "extended coverage", then:

(i) Lender waives the provision in Uniform Covenant 2 for the monthly payment to Lender of one-twelfth of the yearly premium installments for hazard insurance on the Property; and

(ii) Borrower's obligation under Uniform Covenant 5 to maintain hazard insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

Borrower shall give Lender prompt notice of any lapse in required hazard insurance coverage provided by the master or blanket policy.

In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, with any excess paid to Borrower.

C. **Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common

M.J.E.  
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areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Uniform Covenant 10.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender;

(iii) termination of professional management and assumption of self-management of the Owners Association; or

(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F. shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amount shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this PUD Rider.

Kennith Michael Early (Seal)  
KENNITH MICHAEL EARLY Borrower

Melanie Jamison Early (Seal)  
MELANIE JAMISON EARLY Borrower

\_\_\_\_ (Seal)  
Borrower

\_\_\_\_ (Seal)  
Borrower



# CONSTRUCTION RIDER TO FIXED RATE NOTE AND MORTGAGE

**THIS RIDER** (agreement) changes the terms of my construction loan note dated **August 3, 1999** and the Mortgage that secures it. By signing this Rider, I agree that the terms in this Rider will apply in place of those in the Note and Mortgage where the two are different.

## 1. CONSTRUCTION

Although the Note and Mortgage do not refer to it, my loan is to be advanced in installments to finance construction. Thus, I agree that my Mortgage shall be amended by adding the following construction language:

Whereas, buildings or improvements on the property at

**Lot 1502 Highland Park Road, Birmingham, Alabama 35242**

(property) are not yet in process of construction or repair, but are about to be erected or repaired; and whereas, FIRST UNION MORTGAGE CORPORATION has agreed to make the loan herein-described to be paid over to me in installments as the work progresses, the time and amount of each advancement to be made after inspection of the work and upon the estimate of FIRST UNION MORTGAGE CORPORATION, so that when all of the work on said premises shall have been completed to the satisfaction of FIRST UNION MORTGAGE CORPORATION, it shall then pay over to me any balance necessary to complete the full loan of **230,000.00**; and I agree to complete the erection or repair of said buildings to the satisfaction of FIRST UNION MORTGAGE CORPORATION within a reasonable time from the date hereof or at the latest on or before **January 27, 2000**, hereinafter referred to as the "**Construction Completion Date**".

## 2. FIRST UNION MORTGAGE CORPORATION WILL INSPECT BUT NOT APPROVE THE QUALITY OR COMPLETENESS OF CONSTRUCTION

I agree to give FIRST UNION MORTGAGE CORPORATION 10 days notice before I need money to pay for construction. FIRST UNION MORTGAGE CORPORATION needs this time so it may inspect the work. FIRST UNION MORTGAGE CORPORATION's sole purpose in inspecting the work is to determine the approximate amount and value of the work which has been done. This is so that it can decide how much money to advance to me.

I understand that FIRST UNION MORTGAGE CORPORATION is doing its inspection solely for itself and not for me. I agree that I will not hold it responsible for any judgment concerning the amount and value of the work that has been done. I also will not hold FIRST UNION MORTGAGE CORPORATION responsible concerning the quality or completeness of any construction.

## 3. DELAY IN CONSTRUCTION

I agree that if the construction or repair that is taking place is abandoned, stopped or delayed for such a time or in such a manner that, in FIRST UNION MORTGAGE CORPORATION's opinion, the construction or repair will not be completed by **January 27, 2000**, then:

a. FIRST UNION MORTGAGE CORPORATION may, at its option, stop making advances of money even before **January 27, 2000**; and

b. it may also make my loan due and payable right away, and make me pay back all the money it has advanced, with interest, expenses and legal fees. In this case, the terms of Paragraph 18 of the Mortgage I signed shall not apply.

## 4. ASSIGNMENT OF LOAN PROCEEDS OR ADVANCES PROHIBITED

I agree that I shall not have the right to assign or transfer to anyone my right to get any of the money that is to be advanced by FIRST UNION MORTGAGE CORPORATION as the construction repairs are done. If I do try to assign or transfer my rights, the transfer shall be void and of no effect, unless FIRST UNION MORTGAGE CORPORATION has previously agreed in writing that I may do so.

## 5. DELAY IN BEGINNING TO REPAY LOAN

In spite of the terms of Paragraph 3 of the Note that I signed, I do not have to begin repaying the principal of my loan right away. Instead, I may wait until the 1st day of the second month after **January 27, 2000**, FIRST UNION MORTGAGE CORPORATION will begin billing me for repayment of the loan amount called

"amortization" on the 1st day of the second month after **January 27, 2000**. The only exception is if the Construction Completion Date occurs on the 1st day of a month, in which case I must start repaying principal on the 1st day of the next month. The amount of my monthly payment of principal and interest will be re-computed by FIRST UNION MORTGAGE CORPORATION so as to fully amortize the principal of my loan over the remaining number of months until the maturity date. FIRST UNION MORTGAGE CORPORATION will give me notice of the new amount of my monthly payment of principal and interest and the date on which the payment is due. Unless I am notified otherwise, in writing, the amount of the payment of principal and interest will be **\$1,794.29** per month, and I will pay this amount beginning on **March 1, 2000**.

**6. IF I DO NOT COMPLETE CONSTRUCTION WHEN I SHOULD**

If I have not completed all construction or repairs by **January 27, 2000**, then in addition to its other rights under the loan documents, FIRST UNION MORTGAGE CORPORATION has the right to:

1. declare a default and exercise all of its rights reserved in the loan documents to act in case of default; or
2. agree to allow more time for construction to be completed and to disburse any remaining loan funds into a CONSTRUCTION DELAY RESERVE ACCOUNT which shall then begin to accrue interest at the Note Rate, as though the funds had been fully advanced for construction; and
3. charge me a CONSTRUCTION DELAY SURCHARGE, as detailed in the commitment letter for this loan.
4. charge me for all costs associated with the preparation and recording of all extension agreements, escrow materials and title insurance endorsements, and all other costs incurred in order to extend the time for completion of construction.

**6A. ADDRESS FOR NOTICE TO LENDER.**

The Borrower agrees to notify the Lender (and copy Lender) immediately upon receipt of any Notice of Intention To Claim A Lien under Ala Code § 35-11-210, Notice of Intention to File A Lien under Ala Code § 35-11-218, Verified Lien Statement under Ala Code § 35-11-213, List of Trades and Suppliers under Ala Code § 35-11-219, or any other Notices of persons claiming an interest in the premises, or in the event that a stop notice or order of any kind is issued by any governmental agency. Such notice shall be given by certified mail return receipt requested to:

**CHRISTOPHER N. DANNEN, VICE PRESIDENT  
FIRST UNION MORTGAGE CORPORATION  
ONE JEFFERSON SQUARE - JS-3  
P.O. BOX 10300  
WATERBURY, CT 06726-0300**

Any person wishing to claim the benefit of any Notice of Intention To Claim A Lien under Ala Code § 35-11-210, Notice of Intention to File A Lien under Ala Code § 35-11-218, Verified Lien Statement under Ala Code § 35-11-213, List of Trades and Suppliers under Ala Code § 35-11-219, or any other notice or claim is advised by the recording hereof that the address of the Lender for receipt of such notice is shown above. Any such notice should be delivered to such address by certified mail return receipt requested.

**7. HOW WILL I PAY INTEREST DURING CONSTRUCTION**

During construction I will pay FIRST UNION MORTGAGE CORPORATION interest, not in advance, on the principal amount that it has advanced at any time. I will pay this interest within 15 days of the time when FIRST UNION MORTGAGE CORPORATION bills me for it. This will be billed to me on the 1st day of each month during the construction period of this loan up until the amortization period begins, and it will be my responsibility to pay the amount of interest billed to me within 15 days.

**8. UNDERSTANDING**

I agree that before signing I've read this agreement and received a completed copy. I understand it and agree to all its terms.

**9. EXTINGUISHMENT OF CERTAIN PROVISIONS.**

Unless otherwise extended in writing, on **January 27, 2000**, the provisions of this rider, except Paragraph 5, shall self-extinguish and be of no further force and effect, provided however, that any causes of action, claims or rights of the Lender which accrue before said date shall continue unaffected and undiminished by such extinguishment.



**10. CONSTRUCTION LOAN ADVANCES.**

This Rider is to be attached to and forms a part of that certain Mortgage given by the undersigned as Mortgagor(s) to FIRST UNION MORTGAGE CORPORATION, of even date herewith. The Attachment of this rider to the Mortgage is intended to and shall cause said Mortgage to be a "Construction Mortgage". For the purposes of this Rider, the Construction Mortgage Loan Program commitment letter issued by the Lender and accepted by the undersigned Borrowers in regard to this loan shall be deemed to have survived the closing of this loan, and all Advances made to Borrowers shall be made by the Lender in accordance with the terms thereof and the loan documents.

**11. NO COMMENCEMENT OF CONSTRUCTION.**

Borrower hereby specially covenants and warrants that no construction work of any kind has commenced upon the Property and that no work shall commence, and that no construction materials of any kind shall be delivered to the site or stored thereon until after the time the Mortgage is recorded and insured as a first lien.

Date: AUGUST 3, 1999

Borrower:

Kennith Michael Early  
KENNITH MICHAEL EARLY

Borrower:

Melanie Jamison Early  
MELANIE JAMISON EARLY

Borrower:

Borrower:

The undersigned witnessed the Borrower(s) when he/she/they signed this Rider.

Anthony D. Snable  
Settlement Agent  
ANTHONY D. SNABLE, ATTORNEY

Date

AUGUST 3, 1999

Inst # 1999-34003

08/13/1999-34003  
09:26 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
011 HHS 360.50