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Shelby Cnty Judge of Probate,AL
08/01/2003 08:20:00 FILED/CERTIFIED

State of Alabama

SHELBY County }

THIS IS A FUTURE ADVANCE MORTGAGE

This indenture is made and entered into this 21st day of July, 2003 by and between Rumaker Custom Homes, Inc., an Alabama Corporation (hereinafter called "Mortgagor", whether one or more) and National Bank of Commerce of Birmingham, a national banking association (hereinafter called "Mortgagee").

WHEREAS, Rumaker Custom Homes, Inc. is (are) justly indebted to the Mortgagee in the amount of TWO HUNDRED FORTY NINE THOUSAND NINE HUNDRED AND NO/100 dollars ($ 249,900.00) as evidenced by that certain promissory note dated July 21, 2003 which bears interest as provided therein .

THIS IS A PURCHASE MONEY MORTGAGE.

Now, therefore, in consideration of the premises, and to secure (a) the payment of the debt evidenced by said note or notes and any and all extensions and renewals thereof, or of any part thereof, and all interest payable on all of said debt and on any and all such extensions and renewals, and (b) the payment and performance of all other indebtedness, obligations and liabilities of the Mortgagor to the Mortgagee (including obligations of performance) of every kind whatsoever, arising directly between the Mortgagor and the Mortgagee or acquired outright, as a participation or as collateral security from another person by the Mortgagee, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, general partner, drawer, tort-feasor, account party with respect to a letter of credit, indemnitor or otherwise (the "Debt") and the compliance with all the stipulations herein contained, the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagee the following described real estate situated in SHELBY County, Alabama (said real estate being hereinafter called "Real Estate"):

LOT 1107, ACCORDING TO THE SURVEY OF HIGHLAND LAKES, 11TH SECTOR, AN EDDLEMAN COMMUNITY, AS RECORDED IN MAP BOOK 27 PAGE 84 A, B, C & D IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA; BEING SITUATED IN SHELBY COUNTY, ALABAMA.
TOGETHER WITH NONEXCLUSIVE EASEMENT TO USE THE PRIVATE ROADWAYS, CONNON AREAS, ALL AS MORE PARTICULARYLY DESCRIBED IN THE DECLARATION OF EASEMENTS AND MASTER PROTECTIVE COVENANTS FOR HIGHLAND LAKES, A RESIDENTIAL SUBDIVISION, RECORDED AS INST. #1994-07111 AND AMENDED IN INST. NO. 1996-17543 AND WITH 2ND AMENDMENT IN INST. #1999-31095 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, AND THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND LAKES, A RESIDENTIAL SUBDIVISION, 11TH SECTOR, RECORDED AS INSTRUMENT #2000-41316, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA (WHICH, TOGETHER WITH ALL AMENDMENTS THERETO, IS HEREINAFTER COLLECTIVELY REFERRED TO AS, THE "DECLARATION")

Together with all building materials, equipment, fixtures and fittings of every kind or character now owned or hereafter acquired by the Borrower for the purpose of or used or useful in connection with the improvements located or to be located in the Real Estate, whether such materials, equipment, fixtures and fittings are actually located on or adjacent to the Real Estate, and whether in storage or otherwise, wheresoever the same may be located. The personal property and fixtures to be conveyed and mortgaged shall include, without limitation, all lumber and lumber products, bricks, stones and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, wires and wiring, plumbing and plumbing fixtures, air conditioning and heating equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures, and in general all building materials and equipment of every kind and character used or useful in connection with said improvements.

CLAYTON T. SWEENEY, ATTORNEY AT LAW

Together with all the rights, privileges, tenements, appurtenances and fixtures appertaining to the Real Estate, all of which shall be deemed Real Estate and conveyed by this mortgage.

To have and to hold the Real Estate unto the Mortgagee, its successors and assigns forever. The Mortgagor covenants with the Mortgagee that the Mortgagor is lawfully seized in fee simple of the Real Estate and has a good right to sell and convey the Real Estate as aforesaid; that the Real Estate is free of all encumbrances, except as otherwise set forth herein, and the Mortgagor will warrant and forever defend the title to the Real Estate unto the Mortgagee, against the lawful claims of all persons.

This mortgage is subordinate to that certain mortgage from N/A

to _____

dated _____ and recorded in _____

in the Probate Office in _____ County, Alabama.

The Mortgagor hereby authorizes the holder of a prior mortgage encumbering the Real Estate, if any, to disclose to the Mortgagee the following information: (1) the amount of indebtedness secured by such mortgage; (2) the amount of such indebtedness that is unpaid; (3) whether any amount owed on such indebtedness is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; and (5) any other information regarding such mortgage or the indebtedness secured thereby which the Mortgagee may request from time to time.

If this mortgage is subordinate to a prior mortgage, the Mortgagor expressly agrees that if default should be made in the payment of principal, interest or any other sum payable under the terms and provisions of such prior mortgage, the Mortgagee may, but shall not be obligated to, cure such default, without notice to anyone, by paying whatever amounts may be due under the terms of such prior mortgage so as to put the same in good standing; and any and all payments so made, together with interest thereon at the rate of 8% per annum or the highest rate then permitted by law, whichever shall be less, shall be added to the indebtedness secured by this mortgage. Any such amount paid by Mortgagee, with interest thereon, shall be immediately due and payable; and, if such amount is not paid in full immediately by Mortgagor, then, at the option of the Mortgagee, this mortgage shall be in default and subject to immediate foreclosure in all respects as provided by law and by the provisions hereof.

For the purpose of further securing the payment of the Debt, the Mortgagor agrees to: (1) pay all taxes, assessments, and other liens taking priority over this mortgage (hereinafter jointly called "Liens"), and if default is made in the payment of the Liens, or any part thereof, the Mortgagee, at its option, may pay the same; (2) keep the Real Estate continuously insured, in such manner and with such companies as may be satisfactory to the Mortgagee, against loss by fire, vandalism, malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any, payable to the Mortgagee, as its interest may appear; and (3) if any of the improvements located on the Real Estate or if any part thereof is located within an area that has been, or should such area at any time be, designated or identified as an area having special flood hazards by any governmental authority having jurisdiction, obtain such flood insurance as is required by such governmental authority in amounts required by Mortgagee and by any applicable laws or regulations, with loss, if any, payable to the Mortgagee, as its interest may appear. Such insurance shall be in an amount sufficient to cover the Debt and the indebtedness secured by any prior mortgage. The original insurance policies and all replacements therefor, shall be delivered to and held by the Mortgagee until the Debt is paid in full. Each of the insurance policies must provide that it may not be cancelled without the insurer giving at least fifteen days prior written notice of such cancellation to the Mortgagee at the following address: National Bank of Commerce of Birmingham, P.O. Box 10686, Birmingham, Alabama 35202, Attention: Loan Department.

Condominiums. If any portion of the Real Estate and the improvements, buildings or fixtures now or hereafter built thereon constitute a condominium(s) under Alabama law, this paragraph shall apply. The property comprises _____ unit(s) (together with an undivided interest in the common elements) in a condominium known as N/A (the "Condominium"). Mortgagor shall promptly pay, when due, all assessments imposed by the owner's association or other governing body of the Condominium (the "Owner's Association") pursuant to the provisions of the declaration, by-laws, code regulations or other constituent document of the Condominium. So long as the Owner's Association maintains a master or blanket insurance policy on the Condominium which provides insurance coverage against fire, vandalism, malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, and such other hazards as Mortgagee may require, and in such amounts and for such periods as Mortgagee may require, then the requirements in the Mortgage requiring the Mortgagor to maintain fire insurance are deemed satisfied. In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the property whether to the unit or common elements, any such proceeds payable to Mortgagor are hereby assigned and shall be paid to Mortgagee for application in accordance with the provisions of the Mortgage. Mortgagor shall not, except after notice to Mortgagee and with Mortgagee's prior written consent, partition or so divide the property or consent to: (a) the abandonment or termination of the Condominium, except for abandonment or termination provided by law in the cases of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (b) any material amendment to the declaration, by-laws or code of regulations of the Owner's Association, or equivalent constituent document of the Condominium, including, but not limited to, any amendment which would change percentage interest of the unit owners of the Condominium; or (c) the effectuation of any decision by the Owner's Association to terminate professional management and assume self-management of the Condominium.

Subject to the rights of the holder of the prior mortgage set forth above, if any, the Mortgagor hereby assigns and pledges to the Mortgagee as further security for the payment of the Debt each and every policy of hazard or flood insurance, if applicable, now or hereafter in effect which insures said improvements, or any part thereof, together with all the right, title and interest of the Mortgagor in and to each and every such policy, including but not limited to all of the Mortgagor's right, title and interest in and to any premiums paid on such hazard insurance or flood insurance, including all rights to return premiums. If the Mortgagor fails to keep the Real Estate insured as specified above then, at the election of the Mortgagee and without notice to any person (with the exception of any notices required to be given by the Mortgagee in accordance with any laws or regulations pertaining to flood insurance), the Mortgagee may declare the entire Debt due and payable and this mortgage subject to foreclosure, and this mortgage may be foreclosed as hereinafter provided; and, regardless of whether the Mortgagee declares the entire Debt due and payable and this mortgage subject to foreclosure, the Mortgagee may, but shall not be obligated to, insure the Real Estate for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risks of loss, for its own benefit, such proceeds may be used in repairing or reconstructing the improvements located on the Real Estate. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagor and at once payable, without demand upon or notice to the Mortgagor, and shall be secured by the lien of this mortgage, and shall bear interest from date of payment by the Mortgagee until paid at the rate of 8% per annum or the highest rate then permitted by law, whichever shall be less.

Subject to the rights of the holder of the prior mortgage set forth above, if any, the Mortgagor hereby pledges and assigns to the Mortgagee as further security for the payment of the Debt the following rights, claims, rents, profits, issues and revenues:

1. all rents, profits, issues, and revenues of the Real Estate from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to the Mortgagor, so long as the Mortgagor is not in default hereunder, the right to receive and retain such rents, profits, issues and revenues;

2. all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Real Estate, or any part thereof, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Real Estate, or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets, and all payments made for the voluntary sale of the Real Estate, or any part thereof, in lieu of the exercise of the power of eminent domain. The Mortgagee is hereby authorized on behalf of, and in the name of, the Mortgagor to execute and deliver valid acquittances for, and appeal from, any such judgements or awards. The Mortgagee may apply all such sums so received, or any part thereof, after the payment of all the Mortgagee's expenses, including court costs and attorney's fees, on the Debt in such manner as the Mortgagee elects, or, at the Mortgagee's option, the entire amount or any part thereof so received may be released or may be used to rebuild, repair or restore any or all of the improvements located on the Real Estate.

The Mortgagor agrees to take good care of the Real Estate and all improvements located thereon and not to commit or permit any waste thereon, and at all times to maintain such improvements in as good condition as they now are, reasonable wear and tear expected.

(a) The Real Estate is not and never has been in violation of any applicable Environmental Law; (b) the Real Estate is free of Hazardous Substances; and (c) there are no pending investigations, claims or threats of claims with respect to the Real Estate by any governmental authority or other person relating to any Environmental Law.

As used in this mortgage, "Hazardous Substances" shall mean and include all pollutants, contaminants, toxic or hazardous waste, and other substances (including without limitation asbestos and urea formaldehyde foam insulation), the removal of which is required or the manufacture, use, maintenance or handling of which is regulated, restricted, prohibited or penalized by any Environmental Law, or even though not so regulated, restricted, prohibited or penalized, might pose a hazard to the health and safety of the occupants of the property on which it is located or the occupants of the property adjacent thereto. "Environmental Law" shall mean and include any federal, state or local law or ordinance relating to pollution or protection of the environment, including any relating to Hazardous Substances, and any and all regulations, codes, plans, orders, decrees, judgments, injunctions, notices and demand letters issued, entered, promulgated or approved thereunder.

The Mortgagor shall: (a) not permit any Hazardous Substances to be brought onto the Real Estate; (b) if any Hazardous Substances are brought or found on the Real Estate, immediately remove and properly dispose thereof and diligently undertake all cleanup procedures required under applicable Environmental Laws; (c) promptly give notice to the Mortgagee in writing if the Mortgagor should receive notice of any investigation, claim or threatened claim under any Environmental Law, or any notice of violation under any Environmental Law, involving the Mortgagor or the Real Estate; and (d) permit the Mortgagee from time to time to inspect the Real Estate and observe the Mortgagor's operations thereon and to perform tests (including soil and ground water tests) for Hazardous Substances on the Real Estate. (Nothing contained in this section shall be deemed to impose any obligations on the Mortgagee with respect to Hazardous Substances or otherwise.)

The Mortgagor agrees to defend, indemnify and save harmless the Mortgagee from and against all claims, causes of action, judgments and other loss, cost and expense that are related to or arise from any clean-up or removal of, or other remedial action with respect to, any Hazardous Substances now or hereafter located on or included in the Real Estate, or any part thereof, that may be required by any Environmental Law or governmental authority.

Notwithstanding any other provision of this mortgage or the note or notes evidencing the Debt, if the Real Estate, or any part thereof, or any interest therein, is sold, conveyed or transferred, without the Mortgagee's prior written consent, the Mortgagee may, at its option, declare the Debt immediately due and payable; and the Mortgagee may, in its sole discretion, require the payment of a higher rate of interest on the unpaid principal portion of the Debt as a condition to not exercising such option to accelerate the Debt. The Mortgagor agrees that the Mortgagee may, if the Mortgagee desires, accelerate the Debt or escalate the rate of interest payable on the Debt for the purpose of (1) obtaining a higher rate of interest on the Debt or (2) protecting the security of this mortgage.

The Mortgagor agrees that no delay or failure of the Mortgagee to exercise any option to declare the Debt due and payable shall be deemed a waiver of the Mortgagee's right to exercise such option, either as to any past or present default, and it is agreed that no terms or conditions contained in this mortgage may be waived, altered or changed except by a written instrument signed by the Mortgagor and signed on behalf of the Mortgagee by one of its officers.

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

Upon condition, however, that if the Mortgagor pays the Debt (which Debt includes the indebtedness evidenced by the promissory note or notes referred to hereinbefore and any and all extensions and renewals thereof and all interest on said indebtedness and on any and all such extensions and renewals) and reimburses the Mortgagee for any amounts the Mortgagee has paid in payment of Liens, or insurance premiums, and sums due under any prior mortgage, and interest thereon, and fulfills all of its obligations under this mortgage, this conveyance shall be null and void. But if: (1) any warranty or representation made in this mortgage is breached or proves false in any material respect; (2) default is made in the due performance of any covenant or agreement of the Mortgagor under this mortgage; (3) default is made in the payment to the Mortgagee of any sum paid by the Mortgagee under the authority of any provision of this mortgage; (4) the Debt, or any part thereof, remains unpaid at maturity; (5) the interest of the Mortgagee in the Real Estate becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon; (6) any statement of lien is filed against the Real Estate, or any part thereof, under the statutes of Alabama relating to the liens of mechanics and materialmen (without regard to the existence or nonexistence of the debt or the lien on which such statement is based); (7) any law is passed imposing or authorizing the imposition of any specific tax upon this mortgage or the Debt or permitting or authorizing the deduction of any such tax from the principal or interest of the Debt, or by virtue of which any tax, lien or assessment upon the Real Estate shall be chargeable against the owner of this mortgage; (8) any of the stipulations contained in this mortgage is declared invalid or inoperative by any court of competent jurisdiction; (9) Mortgagor, or any of them (a) shall apply for or consent to the

appointment of a receiver, trustee or liquidator thereof or of the Real Estate or of all or a substantial part of such Mortgagor's assets, (b) be adjudicated a bankrupt or insolvent or file a voluntary petition in bankruptcy, (c) fail, or admit in writing such Mortgagor's inability generally to pay such Mortgagor's debts as they come due, (d) make a general assignment for the benefit of creditors, (e) file a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law, or (f) file an answer admitting the material allegations of, or consent to, or default in answering, a petition filed against such Mortgagor in any bankruptcy, reorganization or insolvency proceedings; or (10) an order for relief or other judgment or decree shall be entered by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Mortgagor, or any of them if more than one, or appointing a receiver, trustee or liquidator of any Mortgagor or of the Real Estate or of all or a substantial part of the assets of any Mortgagor, then, upon the happening of any one or more of said events, at the option of the Mortgagee, the unpaid balance of the Debt (which includes principal and accrued interest) shall at once become due and payable and this mortgage shall 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 Real Estate and, at its option, whether or not possession of the Real Estate is taken, to sell the Real Estate (or such parts or parts thereof as the Mortgagee may from time to time elect to sell) under the power of sale which is hereby given to the Mortgagee at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Real Estate to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Real Estate to be sold by publication in some newspaper published in the county or counties in which the Real Estate to be sold is located. If there is Real Estate to be sold under this mortgage in more than one county, publication shall be made in all counties where the Real Estate to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the date designated for the exercise of the power of sale hereunder. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this mortgage and may purchase the Real Estate, or any part thereof, if the highest bidder therefore. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Real Estate may be offered for sale in parcels or en mass for one total price, the proceeds of any such sale en mass to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case the Mortgagee, in the exercise of the power of sale herein given, elects to sale the Real Estate in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Real Estate not previously sold shall have been sold or all of the Debt shall have been paid in full. The Mortgagee shall apply the proceeds of said sale as follows: first, to the expense of advertising, selling and conveying the Real Estate and foreclosing this mortgage, including appraisal fees, title search fees, foreclosure notice costs and reasonable attorney's fees (provided, however, that if this mortgage is subject to § 5-19-10, Code of Alabama 1975, such attorney's fees shall not exceed 15% of the unpaid Debt after default and referral to an attorney not a salaried employee of the Mortgagee and no such attorney's fees shall be collected if the original principal amount or the original amount financed does not exceed $300); second, to the payment of any amounts that have been spent, or that may then be necessary to spend, in paying insurance premiums, Liens, or other encumbrances, with interest thereon; third, to the payment in full of the balance of the Debt (which includes principal, accrued interest an all other sums secured hereby), 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 the sale; and fourth, the balance, if any, to be paid to the party or parties appearing of record to be the owner of the Real Estate at the time of the sale, after deducting the cost of ascertaining who is such owner.

In witness whereof, the undersigned Mortgagor has (have) executed this instrument on the date first written above.

Rumaker Custom Homes, Inc.

Patricia J Rumaker-President

PATRICIA J. RUMAKER
PRESIDENT

This instrument prepared by:
Name: CHRIS COTTON
Address: National Bank of Commerce
1927 First Avenue North
Birmingham, Al 35203

ACKNOWLEDGEMENT FOR PARTNERSHIP

State of Alabama }

_____ County }

I, the undersigned authority, a Notary Public, in and for said county in said state, hereby certify that _____

_____

_____

_____

whose name(s) as (general)(limited) _____ partner(s) of _____

_____ a (n) _____ (general) (limited) partnership, and whose name(s) is (are) signed to the foregoing instrument, and who is (are) known to me, acknowledged before me on this day that, being informed of the contents of said instrument, (he)(she)(they), as such _____ partner(s), and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this _____ day of _____, _____.

AFFIX NOTARIAL SEAL

_____
Notary Public

My commission expires: _____

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Shelby Cnty Judge of Probate,AL
08/01/2003 08:20:00 FILED/CERTIFIED

ACKNOWLEDGEMENT FOR INDIVIDUAL(S

State of Alabama

_____ County }

I, the undersigned authority, a Notary Public, in and for said county in said state, hereby certify that _____
_____
_____
_____, whose name(s) is (are) signed to the foregoing instrument, and who is (are) known to me, acknowledged before me on this day that, being informed of the contents of said instrument, (he)(she)(they) executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, _____.

AFFIX NOTARIAL SEAL

_____
Notary Public

My commission expires: _____

ACKNOWLEDGEMENT FOR CORPORATION

State of Alabama

Jefferson **County** }

I, the undersigned authority, a Notary Public, in and for said county in said state, hereby certify that Patricia J. Rumaker
_____ whose name as President of Rumaker
Custom Homes, Inc, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, (he)(she)(they), as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 21st day of July, 2003.

AFFIX NOTARIAL SEAL

Notary Public

My commission expires: 6-5-2005

RETURN TO: National Bank of Commerce of Birmingham, P.O. Box 10686, Birmingham, Alabama 35202
Attention: Loan Department