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REAL ESTATE MORTGAGE AND SECURITY AGREEMENT

Mortgagors (last name(s) first):

BRANTLEY HOMES INC

128 HIGHCREST RD
Mailing Address
PELHAM, AL 35124-2512
City State Zip

Mortgagee:

FIRST COMMERCIAL BANK

800 SHADES CREEK PARKWAY

BIRMINGHAM, ALABAMA 35209

This instrument was prepared by:

FIRST COMMERCIAL BANK

800 SHADES CREEK PARKWAY

BIRMINGHAM, ALABAMA 35209

State of Alabama

County of SHELBY

Know All Men By These Presents: That whereas BRANTLEY HOMES INC

(whether one or more, hereinafter called the "Borrower") has become justly indebted to FIRST COMMERCIAL BANK with offices in BIRMINGHAM, Alabama, (together with its successors and assigns, hereinafter called "Mortgagee") in the sum of **TWO HUNDRED NINETY TWO THOUSAND DOLLARS AND ZERO CENTS** **Dollars ($ 292,000.00) together with interest thereon, as evidenced by a promissory note or notes of even date herewith. (If the maturity date of the note or notes is 20 years or longer, indicate the latest maturity date here: _____, _____).

NOW, THEREFORE, in consideration of the premises, and in order to secure the payment of said indebtedness and any renewals or extensions thereof and the interest thereon, and all other indebtedness (including future advances) now or hereafter owed by any of the above-named Borrowers to Mortgagee, whether such indebtedness is primary or secondary, direct or indirect, contingent or absolute, matured or unmatured, joint or several, and otherwise secured or not, and to secure compliance with all the covenants and stipulations hereinafter contained, the undersigned BRANTLEY HOMES INC

(whether one or more, hereinafter called "Mortgagors") do hereby assign, grant, bargain, sell and convey unto Mortgagee the following described real property situated in SHELBY County, State of Alabama, viz:

LOT 39, ACCORDING TO THE FINAL PLAT WILD TIMBER PHASE 3, AS RECORDED IN MAP BOOK 34, PAGE 118, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

Source of title (where required):

LAND TITLE COMPANY OF ALABAMA

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together with all rents and other revenues thereof and all rights (including riparian rights), privileges, easements, tenements, interests, improvements and appurtenances thereunto belonging or in anywise appertaining, including any after-acquired title and easements and all rights, title and interest now or hereafter owned by Mortgagors in and to all buildings and improvements, storm and screen windows and doors, gas, steam, electric, solar and other heating, lighting, ventilating, air-conditioning, refrigerating and cooking apparatus, elevators, plumbing, sprinkling, smoke, fire, and intrusion detection devices, and other equipment and fixtures now or hereafter attached or appertaining to said premises, all of which shall be deemed to be real property and conveyed by this mortgage, and all of which real property, equipment and fixtures are sometimes hereinafter called the "mortgaged property."

To Have And To Hold the same and every part thereof unto Mortgagee, its successors and assigns forever.

And for the consideration aforesaid, and as additional security for all of the indebtedness described above (including future advances), Mortgagors hereby assign and transfer to Mortgagee, and grant to Mortgagee a security interest in, all building materials, household appliances, equipment, fixtures and fittings of every kind or character now owned or hereafter acquired by Mortgagors, or any of them, located, whether permanently or temporarily, on the mortgaged property, and all building materials, household appliances, equipment, fixtures and fittings now owned or hereafter acquired by Mortgagors, or any of them, located or stored on any other real property, which are or shall be purchased by Mortgagors, or any of them, for the purpose, or with the intention, of making improvements on the mortgaged property or to the premises located on said property. The personal property herein transferred includes, without limitation, all lumber, bricks, building stones, building blocks, sand, cement, roofing materials, paint, doors, windows, storm doors, storm windows, nails, wires and wiring, hardware, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures, and in general all building materials, equipment and appliances of every kind and character used or useful in connection with improvements to real property.

For the purpose of further securing the payment of said indebtedness Mortgagors warrant, covenant and agree with Mortgagee, its successors and assigns, as follows:

1. That they are lawfully seized in fee and possessed of the mortgaged property and have a good right to convey the same as aforesaid, and they will warrant and forever defend the title against the lawful claims of all persons whomsoever, and that the mortgaged property is free and clear of all encumbrances, easements and restrictions not herein specifically mentioned.

2. That they will pay when due all taxes, assessments, or other liens or mortgages taking priority over this mortgage, and should default be made in the payment of the same, or any part thereof, Mortgagee may pay the same (but Mortgagee is not obligated to do so). If the mortgaged property or any part thereof is a unit in a condominium or a planned unit development, Mortgagors shall perform all of Mortgagors' obligations under the declaration or covenants creating or covering the condominium or planned unit development, the bylaws and regulations of the condominium or planned unit development, and constituent documents. Should Mortgagors default in any of such obligations, Mortgagee may perform Mortgagors' obligations (but Mortgagee is not obligated to do so).

3. That they will keep the buildings on the mortgaged property continuously insured in such amounts, in such manner and with such companies as may be satisfactory to Mortgagee against loss by fire (including so-called extended coverage), wind and such other hazards (including flood and water damage) as Mortgagee may specify from time to time, with loss, if any, payable to Mortgagee under a mortgagee's loss payable clause acceptable to Mortgagee, and will deposit with Mortgagee policies of such insurance or, at Mortgagee's election, certificates thereof, and will pay the premiums therefor as the same become due. Mortgagors shall have the right to provide such insurance through a policy or policies independently obtained and paid for by Mortgagors or through an existing policy. Mortgagee may, for reasonable cause, refuse to accept any policy of insurance obtained by Mortgagors. Mortgagors shall give immediate notice in writing to Mortgagee of any loss or damage to the mortgaged property from any cause whatever. If Mortgagors fail to keep said property insured as above specified, Mortgagee may insure said property (but Mortgagee is not obligated to do so) for its insurable value against loss by fire, wind and other hazards for the benefit of Mortgagors and Mortgagee or for the benefit of Mortgagee alone, at Mortgagee's election. The proceeds of such insurance shall be paid by the insurer to Mortgagee, which is hereby granted full power to settle and compromise claims under all policies, to endorse in the name of Mortgagors any check or draft representing the proceeds of any such insurance, and to demand, receive and give receipt for all sums becoming due thereunder. Said insurance proceeds, if collected, may be credited on the indebtedness secured by this mortgage, less costs of collection, or may be used in repairing or reconstructing the premises on the mortgaged property, at Mortgagee's election. Any application of the insurance proceeds to repairing or reconstructing the premises on the mortgaged property shall not extend or postpone the due date of any installment payments of the indebtedness hereby secured or reduce the amount of such installments.

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4. That commencing upon written request by Mortgagee and continuing until the indebtedness secured hereby is paid in full, Mortgagors will pay to Mortgagee concurrently with, and on the due dates of, payments on the indebtedness hereby secured a sum equal to the ground rents, if any, next due on the mortgaged property, plus the premiums that will next become due and payable on policies of fire and other hazard insurance covering the mortgaged property, plus water rents, fire district charges, taxes and assessments next due on the mortgaged property (all as estimated by Mortgagee), less any sums already paid to Mortgagee therefor, divided by the number of months or other payment periods to elapse before one month or payment period prior to the date when such ground rents, premiums, water rents, fire district charges, taxes and assessments will become due, such sums to be held by Mortgagee in trust, to pay said ground rents, premiums, water rents, fire district charges, taxes and assessments. All payments mentioned in the preceding sentence and the payments to be made on the indebtedness secured hereby shall be added together and the aggregate amount thereof shall be paid by Mortgagors each month or other payment period in a single payment to be applied by Mortgagee to the following items in the order set forth: (a) ground rents, taxes, water rents, fire district charges, assessments, fire and other hazard insurance premiums; (b) interest on the indebtedness secured hereby; and (c) the balance, if any, shall be applied toward the payment of the sum hereby secured. Any deficiency in the amount of such aggregate monthly or other periodic payments shall constitute a default under this mortgage. Any excess funds accumulated under this paragraph after payment of the items herein mentioned shall be credited in calculating the monthly or other periodic payments of the same nature required hereunder in the subsequent year; but if the actual amount of any such item shall exceed the estimate therefor, Mortgagors shall without demand forthwith make good the deficiency. Failure by Mortgagors to do so before the due date of such item shall be a default hereunder. If the mortgaged property is sold under foreclosure or is otherwise acquired by Mortgagee after default, any remaining balance of the accumulations under this paragraph shall be credited to the principal of the secured indebtedness as of the date of the foreclosure sale or as of the date the property is otherwise acquired.

5. That they will take good care of the mortgaged property and the personal property described above and will not commit or permit any waste thereon or thereof or the removal of any oil, gas or mineral therefrom, and that they will keep the same repaired and at all times will maintain the same in at least as good condition as it now is, reasonable wear and tear alone excepted. If Mortgagors fail to make repairs to the mortgaged property, Mortgagee may make such repairs at Mortgagor's expense (but Mortgagee is not obligated to do so). Mortgagee, its agents and employees, may enter the mortgaged property and any improvements thereon at any reasonable time for the purpose of inspecting or repairing such improvements.

6. That all amounts expended by Mortgagee for insurance or for the payments of taxes or assessments or to discharge liens on the mortgaged property or other obligations of Mortgagors or to make repairs to the mortgaged property or any improvements thereon shall become a debt due Mortgagee, shall be payable at once without demand upon or notice to any person, shall bear interest at the rate of interest payable on the principal sum of the note described above, or if no such rate of interest is specified in the note or if the rate specified would be unlawful, at the rate of 8% per annum from the date of payment by Mortgagee, and such debt and the interest thereon shall be secured by this mortgage. Upon failure of Mortgagors to reimburse Mortgagee for all amounts so expended, at the election of Mortgagee and with or without notice to any person, Mortgagee may declare the entire indebtedness secured by this mortgage due and payable and may foreclose this mortgage as hereinafter provided or as provided by law.

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

8. That those Mortgagors who are obligated as the Borrower or as guarantor or endorser to pay the indebtedness hereby secured will well and truly pay and discharge such indebtedness as it shall become due and payable, including the note or notes described above, any renewals or extensions thereof, and any other notes or obligations of such Mortgagors to Mortgagee, whether now or hereafter incurred.

9. That if default shall be made in the payment of any of the indebtedness hereby secured, or in the performance of any of the terms or conditions of this mortgage, Mortgagee may proceed to collect the rent, income and profits from the mortgaged property, either with or without the appointment of a receiver (to which appointment Mortgagors hereby consent), and Mortgagee may notify the lessees or other payors thereof to make payment directly to Mortgagee. Any rents, income and profits collected by Mortgagee prior to foreclosure of this

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mortgage, less the costs of collecting the same, including any real estate or property management commissions and attorney's fees incurred, shall be credited first to advances made by Mortgagee and the interest thereon, then to interest due on the indebtedness hereby secured, and the remainder, if any, shall be applied toward the payment of the principal sum hereby secured.

10. That they will not cause or allow possession of the mortgaged property to be in any other person or entity to the exclusion of Mortgagors and will not cause or allow all or any part of the mortgaged property or any interest therein to be sold, assigned, transferred or conveyed by Mortgagors, or any of them, without Mortgagee's prior written consent, excluding only (a) the creation of a lien or encumbrance expressly subordinate to this mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant, or (d) (if the mortgaged property is the Mortgagors' residence) the grant of any leasehold interest of one year or less (including all mandatory or optional renewal periods) not containing an option to purchase. Mortgagee may withhold its consent or may condition its consent to any such transfer of possession of, or an interest in, the mortgaged property upon the transferee's agreeing to pay a greater rate of interest on all or any part of the indebtedness secured by this mortgage, upon Mortgagee's approval of the creditworthiness of the transferee, and upon the transferee's payment to Mortgagee of a reasonable transfer or assumption fee. Upon breach by Mortgagors, or any of them, of the covenants herein contained, Mortgagee may, at its election, accelerate maturity of the indebtedness hereby secured and proceed to foreclose this mortgage as hereinafter provided or as provided by law.

11. That, except as otherwise expressly disclosed to Mortgagee in writing on the date of this mortgage, no Hazardous Substance (as defined below) has been released or disposed of on or under the mortgaged property by Mortgagors or, to the best of Mortgagors knowledge, by any third party or any predecessor in interest or title to the mortgaged property; no underground storage tanks, whether in use or not in use, are located on or under any part of the mortgaged property; Mortgagors and the mortgaged property are and will remain in compliance with all applicable local, state and federal environmental laws and regulations; no notice has been received by Mortgagors from any governmental authority or any other person claiming violation of any environmental protection law or regulation or demanding payment, indemnity or contribution for any environmental damage or injury to natural resources, relating in any way to the mortgaged property, and Mortgagors will notify Mortgagee promptly in writing if any such notice is hereafter received; and any Hazardous Substance used or produced in Mortgagors business will be used, produced, stored and disposed of in strict compliance with all applicable environmental laws and regulations. Mortgagors will notify Mortgagee immediately if any Hazardous Substance is released or discovered on or under the mortgaged property, and Mortgagors will take or cause to be taken such remedial action as may be necessary in order to remedy such released or discovered Hazardous Substance and to obtain a certificate of remediation or other certificate of compliance from applicable governmental authorities. At Mortgagee's request, Mortgagors will promptly obtain, at Mortgagors' expense, and deliver to Mortgagee an environmental inspection report or will update a previous report, in form acceptable to Mortgagee, prepared by a competent environmental professional reasonably satisfactory to Mortgagee. As used herein, the term "Hazardous Substance" includes, without limitation, any hazardous or toxic substance and any substance or material that is regulated or controlled by the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), the federal Hazardous Materials Transportation Act, the federal Resource Conservation and Recovery Act, the federal Clean Water Act, the federal Clean Air Act, the federal Toxic Substances Control Act, or any other federal, state or local environmental law, ordinance, or regulation now or hereafter in effect. Mortgagors agree to indemnify Mortgagee against any and all liability and expense (including attorneys' fees and litigation expenses) incurred by Mortgagee on account of breach by Mortgagors of any representation, warranty or covenant set forth in this paragraph. This agreement to indemnify shall survive payment of the secured indebtedness, satisfaction of this mortgage, and exercise by Mortgagee of the power of sale contained herein.

12. That, if this is a construction mortgage, Mortgagors will perform and comply with, or will cause the Borrower to perform and comply with, the terms of any construction loan agreement made with Mortgagee with regard to any improvements to be made on the mortgaged property.

13. That all the covenants and agreements of Mortgagors herein contained shall extend to and bind their respective heirs, executors, administrators, successors and assigns, and that such covenants and agreements and all options, rights, privileges and powers herein given, granted or secured to Mortgagee shall inure to the benefit of the successors and assigns of Mortgagee.

14. That the provisions of this mortgage and the note or notes secured hereby are severable, and that the invalidity or unenforceability of any provision of this mortgage or of any such note or notes shall not affect the validity and enforceability of the other provisions of this mortgage or of such note or notes. The remedies provided to Mortgagee herein are cumulative

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with the rights and remedies of Mortgagee at law and in equity, and such rights and remedies may be exercised concurrently or consecutively. A carbon or photostatic copy of this mortgage may be filed as a financing statement in any public office.

If the Borrower pays and discharges all the indebtedness hereby secured (including future advances) as the same becomes due and payable, and if Mortgagors in all things do and perform all acts and agreements by them herein agreed to be done according to the tenor and effect thereof, then and in that event only this conveyance and the security interest herein granted shall be and become null and void, but if default is made in the payment of any indebtedness hereby secured or any renewals or extensions thereof or any part thereof, or if any interest thereon remain unpaid when due, or if default be made in the repayment of any sum expended by Mortgagee under the authority of any provision of this mortgage, or if the interest of Mortgagee in the mortgaged property or any of the personal property described above become endangered by reason of the enforcement of any lien or encumbrance thereon, or if a petition to condemn any part of the mortgaged property be filed by any authority, person or entity having power of eminent domain, or if any law, either state or federal, be passed imposing or authorizing the imposition of a specific tax upon this mortgage or the indebtedness hereby secured or permitting or authorizing the deduction of any such tax from the principal or interest secured by this mortgage or by virtue of which any tax or assessment upon the mortgaged property shall be charged against the owner of this mortgage, or if at any time any of the covenants contained in this mortgage or in any note or other evidence of indebtedness secured hereby be declared invalid or unenforceable by any court of competent jurisdiction, or if Mortgagors fail to do and perform any other act or thing herein required or agreed to be done, then in any of said events the whole of the indebtedness hereby secured, or any portion or part thereof which may at said date not have been paid, with interest thereon, shall at once become due and payable and this mortgage shall be subject to foreclosure at the option of Mortgagee, notice of the exercise of such option being hereby expressly waived by Mortgagors, and Mortgagee shall have the right to enter upon and take possession of the mortgaged property and after or without taking such possession to sell the same before the Court House door of the County (or the division thereof) where said property, or any substantial part thereof, is located, at public outcry for cash, after first giving notice of the time, place, and terms of the sale by publication once a week for three consecutive weeks prior to the sale in a newspaper published in said County, or as otherwise required or permitted by law. Upon the payment of the purchase price, Mortgagee or the auctioneer at the sale is authorized to execute to the purchaser for and in the name of Mortgagors a good and sufficient deed to the property sold. And upon the occurrence of any of the events described above, Mortgagee also shall have the rights and remedies of a secured party after default by its debtor under the Alabama Uniform Commercial Code, including, without limitation, the right to take possession of any of the property herein transferred which is personal property and to sell the same at one or more public or private sales, at the election of Mortgagee. At Mortgagee's request, Mortgagors agree to assemble such property and to make the same available to Mortgagee at such place as Mortgagee shall reasonably designate. Mortgagors agree that notice of the time and place of any public sale or of the time after which any private sale or other intended disposition of the property, or of any part thereof, will be held shall be sufficient if delivered to Mortgagors or mailed to Mortgagors at the address set forth above or such other address as Mortgagors shall have furnished to Mortgagee in writing for that purpose, not less than ten days before the date of the sale or other intended disposition of said property. Mortgagee shall apply the proceeds of said sale or sales under this mortgage as follows: First, to the expenses of advertising, selling and conveying, including reasonable attorneys' fees if the original amount financed exceeded $300 (including any attorneys' fees incurred by Mortgagee in any proceeding seeking to enjoin or stay any sale hereunder or in obtaining relief from any stay of the sale and fees incurred on any appeals); second, to the payment of any amounts that may have been expended or that may then be necessary to expend in paying insurance, taxes, assessments, and other encumbrances, with interest thereon; third, to the payment of the indebtedness hereby secured and interest thereon in such order as Mortgagee may elect, whether such debts shall or shall not have fully matured at the date of said sale; and fourth, subject to any right of offset by Mortgagee, the balance, if any, to Mortgagors or to whomever then appears of record to be the owner of Mortgagors' interest in said property. Mortgagee may bid and become the purchaser of the mortgaged property at any foreclosure sale hereunder. Mortgagors hereby waive any requirement that the mortgaged property be sold in separate tracts and agree that Mortgagee may, at its option, sell said property en masse regardless of the number of parcels hereby conveyed.

☒ (Mark if applicable) This is a construction mortgage that secures an obligation incurred for the construction of an improvement on land (and may include the acquisition cost of the land).

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In Witness Whereof, each of the undersigned has hereunto set his or her signature and seal, or has caused this instrument to be executed by its officer(s), partner(s), member(s), or agent(s) thereunto duly authorized, this 22ND day of APRIL, 2005.

_____(Seal)

_____(Seal)

_____(Seal)

_____(Seal)

ATTEST: _____

Its _____
(Corporate Seal)

BRANTLEY HOMES INC

By _____
BILL BRANTLEY

Its PRESIDENT

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THE STATE OF ALABAMA,

INDIVIDUAL ACKNOWLEDGEMENT

COUNTY

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

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

(Notarial Seal)

_____
Notary Public

THE STATE OF ALABAMA,

INDIVIDUAL

ACKNOWLEDGMENT COUNTY

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

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

(Notarial Seal)

_____
Notary Public

THE STATE OF ALABAMA,

CORPORATE (OR OTHER BUSINESS ENTITY)

COUNTY JEFFERSON **ACKNOWLEGEMENT**

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that BILL BRANTLEY whose name as PRESIDENT of the BRANTLEY HOMES, INC, a CORPORATION is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, _____ he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation or other entity.

Given under my hand and official seal this 22ND day of APRIL, 2005.

(Notarial Seal)

Laura D. Knight
_____
Notary Public