This instrument was prepared by:
Acceptance Loan Company, Inc.

User's Name RUSTY

2834 H Pelham Parkway

Pelham, AL 35124

STATE OF ALABAMA)

Shelby **COUNTY**)

20060222000085720 1/9 $64.55
Shelby Cnty Judge of Probate, AL
02/22/2006 12:45:59PM FILED/CERT

MORTGAGE

THIS INDENTURE, made and executed on this 30 day of January, 2006 by and between:

MORTGAGOR: Timothy J. Farish and Donna M. Farish, A Married Couple
(hereinafter referred to as "Mortgagor"), and

MORTGAGEE: Acceptance Loan Company, Inc.
(hereinafter referred to as "Mortgagee").

W I T N E S S E T H:

WHEREAS, Mortgagor is justly indebted to Mortgagee in the principal sum of ($19,611.33) Dollars, as evidence by a certain Promissory Note (the "Note") of even date herewith, payable as provided therein;

NOW, THEREFORE, the undersigned Mortgagor, in consideration of the indebtedness above mentioned, and to secure the prompt payment of same, with the interest thereon, and any extension, renewals, modifications or substitutions of same, and further to secure all future advances from Mortgagee to Mortgagor or other future obligations of Mortgagor to Mortgagee under any promissory note, contract, guaranty or other evidence of indebtedness, when this Mortgage is specifically referenced, and further to secure the performance of the covenants, conditions and agreements hereinafter set forth, has bargained and sold and does hereby GRANT, BARGAIN, SELL and CONVEY unto the Mortgagee, its successors and assigns, the following described land, real estate, buildings, improvements, and fixtures owned by the Mortgagor (hereinafter sometimes referred to as the "Property" or "Mortgaged Property"), to-wit:

SEE EXHIBIT A

The property is located in Shelby (County), at 137 Victoria Station (Address), Maylene (City), AL (State), 35114 (Zip Code).

TOGETHER WITH all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the land described above, and all fixtures thereto;

TOGETHER WITH all easements, rights-of-way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interest, privileges, liberties, tenements, hereditaments, and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the Property hereinabove described or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor;

TOGETHER WITH all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the premises or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the premises or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including any award for change of grade or streets;

TOGETHER WITH all funds held in any escrow account to cover taxes and insurance with respect to said Property and all right, title and interest in and to any prepaid items, including, without limitation, insurance premiums paid with respect to said Property together with the right to the insurance proceeds.

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto the Mortgagee, its successors and assigns forever, subject, however, to the terms and conditions herein:

AND the Mortgagor covenants and agrees with the Mortgagee as follows:

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ARTICLE I

COVENANTS OF MORTGAGOR

1.01 WARRANTY OF TITLE: The Mortgagor is lawfully seized of an indefeasible estate in fee simple in the Property hereby mortgaged, and has good right, full power and lawful authority to sell, convey and mortgage the same in the manner and form aforesaid; that the same is free and clear of all liens, charges, and encumbrances whatsoever, except as reflected herein.

1.02 PERFORMANCE OF NOTE AND MORTGAGE: The Mortgagor will perform, observe and comply with all provisions hereof and of the Note secured hereby and will duly and punctually pay to the Mortgagee the sum of money expressed in the Note with interest thereon and all other sums required to be paid by the Mortgagor pursuant to the provisions of this Mortgage, all without any deductions or credit for taxes or other similar charges paid by the Mortgagor.

1.03 COVENANT TO PAY TAXES, ETC.: The Mortgagor, from time to time when the same shall become due, will pay and discharge all taxes of every kind and nature (including real and personal property taxes and income, franchise, withholding, profits and gross receipts taxes), all general and special assessments, levies, permits, inspection and licenses fees, all water and sewer rents and charges, all charges for public utilities, and all other public charges whether of a like or different nature, ordinary or extraordinary, foreseen or unforeseen, imposed upon or assessed against them or the Mortgaged Property or any part thereof or upon the revenues, rents, issues, income and profits of the Mortgaged Property or arising in respect of the occupancy, use or possession thereof being hereinafter sometimes collectively referred to as "taxes and other assessments." Upon notice by Mortgagee to Mortgagor, Mortgagee may require Mortgagor to pay to Mortgagee funds for taxes and other assessments and insurance premiums as set forth below.

1.04 INSURANCE:

(a) The Mortgagor will at all times keep the Mortgaged Property insured, for the mutual benefit of the Mortgagee and the Mortgagor, as their respective interests may appear, with insurance against loss or damage by fire and other casualty with extended coverage and vandalism, malicious mischief and flood insurance covering the Mortgaged Property and all improvements thereon, together with all replacements, additions and improvements thereof, and all fixtures therein, in an amount at least equal to the unpaid balance of the Note and other indebtedness secured hereby, but not greater than the full insurable value thereof.

(b) Such insurance shall be evidenced by a valid and enforceable policy in form and substance, and issued by and distributed among insurers of recognized responsibility, in all respects reasonably satisfactory to the Mortgagee. All such policies shall be delivered to the Mortgagee concurrently with the execution and delivery hereof and, thereafter, all renewal or replacement policies shall be so delivered to the Mortgagee not less than ten (10) days prior to the expiration date of the policy to be renewed or replaced, accompanied, if requested by the Mortgagee, by evidence satisfactory to the Mortgagee that all premiums payable with respect to such policies have been paid and such policies shall contain (i) no endorsement permitting cancellation for default in payment of a loan whereby the premium has been financed and (ii) a provision for fifteen (15) days notice to Mortgagee before cancellation. The Mortgagee, at its sole option, may accept duplicate original policies or certificates evidencing the issuance of such policies. All such policies shall contain a New York standard, non-contributory mortgage endorsement making losses payable to the Mortgagee.

(c) If any portion of the Mortgaged Property or any improvements, or fixtures thereof, thereon or therein or appurtenant thereto are damaged or destroyed by fire or other cause, Mortgagor shall forthwith give notice thereof to Mortgagee, and shall make prompt proof of loss to the applicable insurance companies whereupon, all insurance proceeds shall be payable to Mortgagee.

1.05 ESCROW: Mortgagor will pay to the Mortgagee, upon request, a pro rata portion of the taxes and other assessments and insurance premiums next to become due, as estimated by the Mortgagee. Any deficit shall immediately be paid to the Mortgagee by the Mortgagor of the premises. Money so held shall not bear interest, and upon default will be applied by the Mortgagee on account of the indebtedness secured by this Mortgage. Mortgagor shall furnish Mortgagee with bills in sufficient time to pay for the taxes and other assessments before penalty attaches and for the insurance premiums before the policies lapse.

1.06 CONDEMNATION: In the event that the Mortgaged Property or any part thereof, is taken under the power of eminent domain or by condemnation, the Mortgagee, its successors and assigns, shall as a matter of right be entitled to the entire proceeds of the award which is hereby assigned to the Mortgagee, it successors and assigns. Mortgagee may apply the same to payment of installments last due under said note. Mortgagee is authorized in the name of Mortgagor to execute and deliver valid acquittances thereof and to appeal from any such award.

1.07 CARE OF THE PROPERTY: The Mortgagor will preserve and maintain the Mortgaged Property in good condition and repair, and will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof; will not permit nor perform any act which would in any way impair the value of the Mortgaged Property; and shall not demolish any building or improvement located on said Property without the written consent of Mortgagee.

1.08 INSPECTION: The Mortgagee or its duly authorized representative is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours.

1.09 COMPLIANCE: The Mortgagor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property or any part thereof.

1.10 PERFORMANCE BY MORTGAGEE OF DEFAULTS BY MORTGAGOR: If the Mortgagor shall default in the payment of any tax, lien, assessment or charge levied or assessed against the premises; in the payment of any utility charge, whether public or private; in the payment of insurance premium; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder; or in the performance or observance of any other covenant, condition or term of this Mortgage, and the period applicable thereto within which Mortgagor may correct the same has expired (provided that in the event of an emergency or where in Mortgagee's reasonable judgment its rights or security hereunder would be impaired by delay, Mortgagee may act without notice or delay of any kind), then the Mortgagee, at its option may perform or observe the same, and all payments made for costs or incurred by the Mortgagee in connection therewith, shall be secured hereby and shall be upon demand, immediately repaid by the Mortgagor to the Mortgagee with interest thereon at the rate fifteen percent (15%) per annum. The Mortgagee is hereby empowered to enter and to authorize others to enter upon the premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Mortgagor, or any person in possession holding under the Mortgagor.

1.11 TRANSFER OF MORTGAGED PROPERTY: The Mortgagor shall not sell, assign, encumber or otherwise convey the Mortgaged Property or any part thereof, without obtaining the prior written consent of Mortgagee. Any such sale, transfer, conveyance or encumbrance made without Mortgagee's prior written consent shall constitute a default. It is agreed that if Mortgagee is willing to consent to any transfer of the benefits of this Mortgage not expressly authorized hereunder, Mortgagee may impose conditions for such consent, including, without limitation, requirements: (i) that the purchaser establish satisfactory credit and ability to operate the Mortgaged Property to Mortgagee's satisfaction; (ii) that the purchaser specifically assume all obligations of Mortgagor to be performed under this Mortgage and Note secured hereby; (iii) that reasonable fees be paid to the Mortgagee at the time of such transfer in order to cover all costs and expenses, including attorneys' fees, incurred in reviewing the proposed purchaser and determining appropriate conditions to assignment; (iv) that the interest rate provided for under the Note be increased or the maturity date stated therein shortened; or (v) that such purchaser agree to additional restrictions on further transfers.

1.12 LIENS: Any lien which may be filed under the provisions of the statutes of Alabama, relating to the liens of mechanics and materialmen, shall be promptly paid and discharged by Mortgagor and shall not be permitted to take priority over the lien of this Mortgage, provided that Mortgagor, upon first furnishing to Mortgagee such security as shall be satisfactory to Mortgagee for the payment of all liability, costs and expenses of the litigation, may in good faith contest, at Mortgagor's expense, the validity of any such lien or liens.

1.13 SUBSEQUENT LEGISLATION: In the event of the enactment of' any law by the State of Alabama, after the date of this Mortgage, deducting from the value of the land for the purpose of taxation any lien thereon, or imposing any liability upon Mortgagee, in respect of the indebtedness secured hereby, or changing in any way the laws now in force for the taxation of mortgages, or debts secured by mortgages, or the manner of collection of any such taxes, so as to affect this Mortgage, Mortgagor shall pay any such obligation imposed on Mortgagee thereby, and in the event Mortgagor fails to pay such obligation or is prohibited by law from making such payment, the whole of the principal sum secured by this Mortgage, together with the interest due thereon shall, at the option of Mortgagee, without notice to any party, become immediately due and payable.

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1.14 ASSIGNMENT OF LEASES AND RENTS: Mortgagor irrevocably grants, bargains, conveys, sells and mortgages to Mortgagee as additional security all the right, title and interest in and to any and all existing or future leases, subleases, and any other written or verbal agreements for the use and occupancy of any portion of the Property, including any extensions, renewals, modifications or substitutions of such agreements (all referred to as "Leases") and rents, issues and profits (all referred to as "Rents"). Mortgagor will promptly provide Mortgagee with true and correct copies of all existing and future Leases. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default under the terms of this Mortgage.

Mortgagor agrees that this assignment is immediately effective between the parties to this Mortgage. Mortgagor agrees that this assignment is effective as to third parties on the recording of this Mortgage, and that this assignment will remain in effect during any redemption period until the Note is satisfied and all underlying agreements are ended, and that this assignment is enforceable when Mortgagee takes actual possession of the Property, when a receiver is appointed, or when Mortgagee notifies Mortgagor of the default and demands that Mortgagor and Mortgagor's tenants pay all future Rents directly to Mortgagee. On receiving notice of default, Mortgagor will endorse and deliver to Mortgagee any payment of Rents in Mortgagor's possession and will receive any Rents in trust for Mortgagee and will not commingle the Rents with any other funds. Any amounts collected will be applied as provided in this Mortgage. Mortgagor warrants that no default exists under the Leases or any applicable landlord/tenant law. Mortgagor also agrees to maintain and require any tenant to comply with the tenants of the Leases and applicable law.

1.15 ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES: As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

(a) Except as previously disclosed and acknowledged in writing to Mortgagee, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.

(b) Except as previously disclosed and acknowledged in writing to Mortgagee, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.

(c) Mortgagor shall immediately notify Mortgagee if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.

(d) Mortgagor shall immediately notify Mortgagee in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.

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ARTICLE II

EVENTS OF DEFAULT; REMEDIES OF MORTGAGEE

2.01 EVENT OF DEFAULT: The term "Event of Default," wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Failure by the Mortgagor to pay when due any installments of principal or interest within ten (10) days after maturity;

(b) Failure by the Mortgagor to duly observe any other covenant, condition or agreement contained in this Mortgage, in the Note, or in any other document executed by the Mortgagor relating to this Mortgage loan transaction within thirty (30) days after notice of default;

(c) The filing by the Mortgagor of a voluntary petition in bankruptcy, or the Mortgagor's adjudication as a bankrupt or insolvent, or the filing by the Mortgagor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for themselves under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the Mortgagor's seeking or consenting to or acquiescence in the appointment of any trustee, receiver or liquidator of all of any substantial part of the Mortgaged Property or of any or all the rents, revenues, issues, earnings, profits or income thereof, or the making of any general assignment for the benefit of credits or the admission in writing of its inability to pay its debts generally as they become due; or

(d) The entry by a court of competent jurisdiction of an order, judgment, or decree approving a petition filed against the Mortgagor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency, or other relief for debtors, which order, judgment or decree remains unvacated and unstayed for an aggregate of thirty (30) days (whether or not consecutive) from the date of entry thereof, or the appointment of any trustee, receiver or liquidator of the Mortgagor or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof without the consent or acquiescence of the Mortgagor which appointment shall remain unvacated and unstayed for an aggregate for thirty (30) days (whether or not consecutive);

(e) The occurrence of any act or condition whereby the interest of Mortgagee in said Property becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon;

(f) The occurrence of any act or condition occasioned or suffered to be occasioned by Mortgagor whereby the security of this Mortgage shall be weakened, diminished, or impaired, in the reasonable judgment of the Mortgagee.

2.02 <u>ACCELERATION OF MATURITY</u>: If any Event of Default shall have occurred, then the entire principal amount of the indebtedness secured hereby with interest accrued thereon shall, at the option of the Mortgagee, become due and payable without notice or demand, time being of the essence; and any omission on the part of the Mortgagee to exercise such option when entitled to do so shall not be considered as a waiver of such right.

2.03 <u>RIGHT OF MORTGAGEE TO ENTER AND TAKE POSSESSION</u>:

(a) If an Event of Default shall have occurred, the Mortgagor, upon demand of the Mortgagee, shall forthwith surrender to the Mortgagee the actual possession of the Mortgaged Property; and if and to the extent permitted by law, the Mortgagee may enter and take possession of all the Mortgaged Property, and may exclude the Mortgagor and his agents and employees wholly therefrom.

(b) Upon every such entering upon or taking of possession, the Mortgagee may hold, store, use, operate, manage and control the Mortgaged Property, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals thereto and thereon and purchase or otherwise acquire additional fixtures, personality and other property; (ii) insure or keep the Mortgaged Property insured; (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Mortgagor in his name or otherwise, with respect to the same; (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted the Mortgagee, all as the Mortgagee from time to time may determine to be to its best advantage; and the Mortgagee may collect and receive all the income, revenues, rents, issues and profits of the same including those past due as well as those accruing thereafter, and, after deducting: (1) all expenses of taking, holding, managing, and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (2) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions; (3) the cost of such insurance; (4) such taxes and other assessments and other charges prior to the lien of this Mortgage as the Mortgagee may determine to pay; (5) other proper charges upon the Mortgaged Property or any part thereof; and (6) the reasonable compensation, expenses and disbursements of the attorneys and agent of the Mortgagee; shall apply the remainder of the moneys so received by the Mortgagee, first to the payment of accrued interest; then to the payment of tax deposits; and finally to the payment of overdue installments of principal and interest.

2.04 <u>MORTGAGEE'S POWER OF ENFORCEMENT</u>: If an Event of Default shall have occurred and be continuing, the Mortgagee may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy: (a) to enforce payment of the Note or the performance of any term thereof or any other right; (b) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, as provided by law; and (c) to pursue any other remedy available to it, all as the Mortgagee shall deem most effectual for such purposes. The Mortgagee shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as the Mortgagee may determine.

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2.05 POWER OF SALE: If an Event of Default shall have occurred, Mortgagee may sell the Mortgaged Property at public outcry to the highest bidder for cash in front of the Courthouse door in the county where said Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county, and, upon payment of the purchase money, Mortgagee or any person conducting the sale for Mortgagee is authorized to execute to the purchaser at said sale a deed to the premises so purchased. Mortgagee may bid at said sale and purchase said premises, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner Mortgagee may elect.

2.06 APPLICATION OF FORECLOSURE PROCEEDS: The proceeds of any foreclosure sale pursuant to Article II shall be applied as follows:

(a) First, to the reasonable expenses of making the sale including a reasonable attorney's fee for such services as may be necessary in the collection of said indebtedness or the foreclosure of this Mortgage;

(b) Second, to the repayment of any money, with interest thereon, which Mortgagee may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, or debts as hereinabove provided;

(c) Third, to the payment and satisfaction of the indebtedness hereby secured with interest to date of sale;

(d) Fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the premises at the time of the sale after deducting any expense of ascertaining who is such owner.

2.07 MORTGAGEE'S OPTION ON FORECLOSURE: At the option of the Mortgagee, this Mortgage may be foreclosed as provided by law or in equity, in which event a reasonable attomey's fee shall, among other costs and expenses, be allowed and paid out of the proceeds of the sale. In the event Mortgagee exercises its option to foreclose the Mortgage in equity, Mortgagee may, at its option, foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties defendants to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by the Mortgagor, a defense to any proceedings instituted by the Mortgagee to collect the sums secured hereby, or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

2.08 WAIVER OF EXEMPTION: Mortgagor waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage, and Mortgagor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the premises be set off against any part of the indebtedness secured hereby.

2.09 SUITS TO PROTECT THE MORTGAGED PROPERTY: The Mortgagee shall have power: (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of the Mortgage; (b) to preserve or protect its interest in the Mortgaged Property and in the income, revenues, rents and profits arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with, such enactment, rule or order would impair the security hereunder.

2.10 DELAY OR OMISSION-NO WAIVER: No delay or omission of the Mortgagee or of any holder of the note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Mortgage to the Mortgagee may be exercised from time to time and as often as may be deemed expedient by the Mortgagee.

2.11 NO WAIVER OF ONE DEFAULT TO AFFECT ANOTHER, ETC.: No waiver of any default hereunder shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereon. If the Mortgagee: (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted herein or in the note; (d) releases any part of the Mortgaged Property from the lien of the Mortgage or otherwise changes any of the terms of the note or Mortgage; (f) consents to the granting of an easement thereon; or (g) makes or consents to any agreement subordinating the lien or change hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under the Note, Mortgage or otherwise of the Mortgagor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser,

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surety or guarantor; nor shall any such act or omission preclude the Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or of any subsequent default; nor, except as otherwise expressly provided in an instrument or instruments executed by the Mortgagee, shall the lien of this Mortgage be altered thereby.

2.12 DISCONTINUANCE OF PROCEEDINGS - POSITION OF PARTIES RESTORED: In case the Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been determined adversely to the Mortgagee, then and in every such case the Mortgagor and the Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Mortgagee shall continue as if no such proceeding had been taken.

2.13 REMEDIES CUMULATIVE: No right, power, or remedy conferred upon or reserved to the Mortgagee by this Mortgage is intended to be exclusive of any right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

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ARTICLE III

MISCELLANEOUS

3.01 CONDITION: This Mortgage is given upon the condition that if the Mortgagor shall pay or cause to be paid to the Mortgagee the principal and interest payable in respect to the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by the Mortgagor, and shall keep, perform and observe all and singular the covenants and promises in the Note, and any renewal, extension or modification thereof, and in this Mortgage expressed to be kept, performed and observed by and on the part of the Mortgagor, all without fraud or delay, then this Mortgage, and all the properties, interest and rights hereby granted, bargained, and sold shall cease, determine and be void, but shall otherwise remain in full force and effect.

3.02 SUCCESSORS AND ASSIGNS INCLUDED IN PARTIES: Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, administrators, executors, successors and assigns of such party shall be included, and all covenants and agreements contained in this Mortgage by or on behalf of the Mortgagor or by or on behalf of the Mortgagee shall bind and inure to the benefit of their respective heirs, administrators, executors, successors and assigns, whether so expressed or not.

3.03 CAPTIONS: The captions of the articles, section subparagraphs and subdivisions of this Mortgage are for convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

3.04 INVALID PROVISIONS TO AFFECT NO OTHERS: In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage or in the note shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein and in the Note shall be in no way affected, prejudiced or disturbed thereby.

3.05 INDEMNIFICATION: This Mortgage is intended as a security for the liabilities of Mortgagor. Notwithstanding any rights conveyed on Mortgagee herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligations, duty or liability of Mortgagor. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur by reason of its exercise of rights hereunder and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligation or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained herein. Mortgagee shall not have any responsibility for the inspection, control, care, management or repair of the Mortgaged Property nor for Mortgagor's operations thereon. Should Mortgagee incur any such liability, loss or damage by reason hereof, Mortgagor agrees to reimburse Mortgagee immediately upon demand for the amount thereof, together with costs, expenses and reasonable attorneys' fees.

3.06 COSTS OF COLLECTION: In the event that Mortgagee retains an attorney in order to enforce, collect or secure the Note secured hereby, to enforce any provisions of this Indenture, to collect any sums due hereunder, or in order to attempt to enforce, collect or secure any items, Mortgagor shall reimburse Mortgagee, including reasonable attorneys' fees, whether suit be brought or not. Reasonable attorneys' fees shall include, but not be limited to, reasonable fees incurred in any and all judicial, bankruptcy and other proceedings, including appellate proceedings, whether such proceedings arise before or after entry of a final judgment.

3.07 **GOVERNING LAW:** This Mortgage, and the right of the parties hereunder, shall be interpreted and governed in accordance with the laws of the State of Alabama.

3.08 **NOTICES:** All notices under this Mortgage shall be in writing, duly signed by the party giving such notice, and shall be deemed to have been given when deposited in the United States Mail, postage prepaid, by registered or certified mail, return receipt requested, to the applicable address shown on the first page hereof, or to such other address as either party may from time to time provide by notice hereunder to the other.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals on the day and year first above written.

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MORTGAGOR:

Timothy J. Farish

X Donna M. Farish

STATE OF ALABAMA)

Shelby **COUNTY**)

I, a notary public, hereby certify that Timothy J. Farish and Donna M. Farish whose name(s) is/are signed to the foregoing conveyance, and who is/are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she/they executed the same voluntarily on the day the same bears date. Given under my hand this 30 day of Jan 2006.

Teresa B. Liner
(Notary Public)

(Seal)

My commission expires

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Dec 11, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Exhibit A

Lot 22 of Cedar Grove at Sterling Gate, Sector 2, Phase 1 as recorded in Map Book 25, page 52 in the office of the Judge of Probate, Shelby County, Alabama.

20060222000085720 9/9 $64.55
Shelby Cnty Judge of Probate,AL
02/22/2006 12:45:59PM FILED/CERT