

4 360,000  
ABOVE  
MORTGAGE

5

Send Tax Notice To:  
Summerchase Apartments, L.P.  
c/o Engel Realty Company, Inc.  
951 South 18<sup>th</sup> Street  
Birmingham, AL 35205

This instrument was prepared by:  
Claude McCain Moncus, Esq.  
✓ CORLEY MONCUS, P.C.  
400 Shades Creek Parkway, Suite 100  
Birmingham, Alabama 35209  
205.879.5959

20061030000533150 1/5 \$383.00  
Shelby Cnty Judge of Probate, AL  
10/30/2006 10:02:32AM FILED/CERT

Shelby County, AL 10/30/2006  
State of Alabama  
Deed Tax: \$360.00

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## STATUTORY WARRANTY DEED

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STATE OF ALABAMA     )  
JEFFERSON COUNTY    )     **KNOW ALL MEN BY THESE PRESENTS,**

That in consideration of Ten Dollars (\$10.00), and other valuable consideration to the undersigned Grantor in hand paid by the Grantee herein, the receipt whereof is acknowledged, the undersigned, **Engel Summerchase, LLC**, an Alabama limited liability company (herein referred to as Grantor) does grant, bargain, sell and convey unto **Summerchase Apartments, L.P.**, an Alabama limited partnership, an undivided 10.00% interest, (herein referred to as Grantee), in the following described real estate, situated in Shelby County, Alabama.

See Exhibit A attached hereto and made a party hereof.

Subject to those matters as set forth on Exhibit B attached hereto and made a part hereof.

**TO HAVE AND TO HOLD** unto the said Grantee, and to Grantee's successors and assigns forever.

Grantor makes no warranty or covenant respecting the nature of the quality of title to the property herein conveyed other than that the Grantor has neither permitted or suffered any lien, encumbrance or adverse claim to the property herein since the day of the acquisition thereof by the Grantor except as disclosed to Grantee.

**IN WITNESS WHEREOF**, the undersigned have hereto set its hand and seal this 27<sup>th</sup> day of October, 2006.

Engel Summerchase, LLC, an Alabama limited liability company

By: Engel Realty Company, Inc., an Alabama corporation, Its Manager

By: William A. Butler [SEAL]  
William A. Butler  
Its Executive Vice President

STATE OF ALABAMA       )  
JEFFERSON COUNTY       )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that William A. Butler, whose name as Executive Vice President of Engel Realty Company, Inc., an Alabama corporation, the Manager of Engel Summerchase, LLC, an Alabama limited liability company, 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, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as Manager of said limited liability company as aforesaid.

Given under my hand and official seal this the 27<sup>th</sup> day of October, 2006.

[NOTARY SEAL]

Claude M. Moncus  
NOTARY PUBLIC - Claude M. Moncus  
My commission expires: 12.31. 2007



**EXHIBIT A**  
**PAGE 1**

Commence at the Southeast corner of the Northwest  $\frac{1}{4}$  of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, run thence in a Westerly direction along the South line of said  $\frac{1}{4}$  Section for a distance of 2,300.55 feet; thence turn an angle to the right of 86 degrees and run in a Northwesterly direction along the Northeasterly right-of-way of U.S. Highway No. 31 South for a distance of 1,096.84 feet; thence turn an angle to the right of 101 degrees 03 minutes 10 seconds and run in an Easterly direction for a distance of 346.16 feet to the point of beginning; from the point of beginning thus obtained, thence turn an angle to the left of 71 degrees 19 minutes 50 seconds and run in a Northeasterly direction for a distance of 580 feet; thence turn an angle to the right of 18 degrees 59 minutes 22 seconds and run in a Northeasterly direction for a distance of 525.54 feet; thence turn an angle to the right of 101 degrees 40 minutes 03 seconds and run in a Southeasterly direction for a distance of 526.96 feet; thence turn an angle to the right of 31 degrees 30 minutes and run in a Southeasterly direction for a distance of 176.65 feet; thence turn an angle to the right of 00 degrees 14 minutes 53 seconds and run in a Southeasterly direction for a distance of 60 feet; thence turn an angle to the left of 90 degrees to the tangent of the following described course, said course being situated on a curve to the left having a central angle of 15 degrees 10 minutes 25 seconds and a radius 438.82 feet; thence run in a Northeasterly direction along the arc of said curve for a distance of 116.21 feet to the end of said curve and the point of beginning of a curve to the right, said curve having a central angle of 87 degrees 12 minutes 41 seconds and a radius of 25 feet; thence run along the arc of said curve to the right in a Northeasterly, Easterly and Southeasterly direction for a distance of 38.05 feet to the end of said curve; thence run along the tangent extended to last described course in a Southeasterly direction for a distance of 424.16 feet to the point of beginning of a curve to the right, said curve having a central angle of 19 degrees 26 minutes 05 seconds and a radius of 349.57 feet; thence run along the arc of said curve in a Southeasterly direction for a distance of 118.57 feet to the end of said curve; thence run along the tangent extended to said curve in a Southeasterly direction for a distance of 20.40 feet to the point of beginning of a curve to the left, said curve having a central angle of 12 degrees 15 minutes 04 seconds and a radius of 889.71 feet; thence run along the arc of said curve in a Southeasterly direction for a distance of 190.24 feet to the end of said curve and the point of beginning of a curve to the right, said curve having a central angle of 93 degrees 01 minutes 06 seconds and a radius of 25 feet; thence run along the arc of said curve to the right in a Southeasterly and Southwesterly direction for a distance of 40.59 feet to the end of said curve and the point of beginning of a curve to the right, said curve having a central angle of 25 degrees 18 minutes and a radius of 483.33 feet; thence run along arc of said curve in a Northwesterly direction for a distance of 213.43 feet to the end of said curve; thence run along the tangent extended to said curve in a Northwesterly direction for a distance of 35.74 feet to the point of beginning of a curve to the left, said curve having a central angle of 25 degrees, 39 minutes 10 seconds and a radius of 271.57 feet; thence run along the arc of said curve in a Northwesterly and Southwesterly direction for a distance of 121.59 feet to the end of said curve and the point of beginning of a curve to the right, said curve having a central angle of 20 degrees 18 minutes 07 seconds and a radius of 591.13 feet; thence run along the arc of said curve in a Southwesterly, Westerly and Northwesterly direction for a distance of 209.46 feet to the end of said curve;

(continued)



**EXHIBIT A**  
**PAGE 2**

thence turn an angle to the right of from tangent of last described course of 34 degrees 45 minutes 06 seconds and run in a Northwesterly direction for a distance of 307.91 feet; thence turn an angle to the right of 44 degrees 55 minutes 54 seconds and run in a Northerly direction for a distance of 142.00 feet; thence turn an angle to the left of 84 degrees 31 minutes 38 seconds and run in a Northwesterly direction for a distance of 335.53 feet; thence turn an angle to the right of 40 degrees 30 minutes and run in a Northwesterly direction for a distance of 153.91 feet to the point of beginning.

Together with a perpetual easement for sanitary sewer pipeline over, along and through the following described real estate for the benefit of the real property described hereinabove:

Description of a 20 foot wide sanitary sewer easement situated in the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, the centerline of which is more particularly described as follows:

From the Southeast corner of the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, run West along the South line of said Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  for a distance of 1170.59 feet; thence turn an angle to the right of 110 degrees 52 minutes 50 seconds and run in a Northeasterly direction for a distance of 32.41 feet to the center of an existing sanitary sewer manhole and the point of beginning of the centerline of the 20 foot wide sanitary sewer easement herein described; from the point of beginning thus obtained, continue along the last described course for a distance of 175.15 feet; thence turn an angle to the left of 15 degrees 58 minutes 58 seconds and run in a Northeasterly direction for a distance of 178.66 feet; thence turn an angle to the right of 8 degrees 19 minutes 00 seconds and run in a Northeasterly direction for a distance of 160.00 feet, more or less, to a point on the Southern boundary line of the above described property, and the end of said sanitary sewer easement.

ALSO, rights to the use of a 20 foot sanitary sewer easement as shown on the recorded plat of Riverchase Properties Second Addition to Riverchase, as recorded in Map Book 9, Page 40, in the Probate Office of Shelby County, Alabama.

TOGETHER WITH rights that constitute an interest in real estate obtained under that certain Easement granted by The Gables Condominium Association, Inc. as recorded in Real Volume 97, Page 535.

TOGETHER WITH rights that constitute an interest in real estate obtained under Section 6.2 of the Amendment No. 2 to the Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Riverchase (Business) as to Easement of Enjoyment of Community recorded in Real Volume 19, Page 633.



## EXHIBIT B

20061030000533150 5/5 \$383.00  
Shelby Cnty Judge of Probate, AL  
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The conveyance is hereby subject to:

1. Ad valorem taxes due October 1, 2007; and
2. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, together with any release of liability for injury or damage to persons or property as a result of the exercise of such rights as recorded in Deed Book 4, Page 464, and Deed Book 127, Page 140.
3. Agreement with Blue Cross and Blue Shield as recorded in Misc. Volume 19, Page 690.
4. Utility easement and sanitary sewer easement as recorded in Real Volume 86, Page 332.
5. Declaration of Protective Covenants, Agreements Easements, Charges and Liens recorded in Misc. Volume 13, Page 50, amended by Misc. Volume 15, Page 189 and Misc. Volume 19, Page 633.
6. Restrictions and covenants as recorded in Deed Book 331, Page 757.
7. Right of way to Alabama Power Company as set out in instrument(s) recorded in Real Volume 183, Page 233.
8. Right of way in favor of Southern Bell Telephone & Telegraph Company by instrument(s) recorded in Real Volume 156, Page 983.
9. Rights of others in and to the use of that certain easement for sanitary sewer, together with terms and conditions contained therein, as recorded in Real Volume 97, Page 535.
10. Rights of others in and to the use of that certain sanitary sewer easement as reflected on Riverchase Properties Second Addition to Riverchase, as recorded in Map Book 9, Page 40.
11. Easement to Marcus Cable of Alabama LLC recorded in Instrument # 2006022100084750.
12. Multifamily Mortgage, Assignment of Rents and Security Agreement executed by Summerchase, L.L.C. and South Oak Properties, L.L.C. to Collateral Mortgage, Ltd., in the amount of 10,550,000.00 recorded in Instrument # 2000-32057; transferred to Federal Home Loan Mortgage Corporation, by instrument recorded in Instrument # 2000-32058 together with UCC-1 Financing Statement in favor of Collateral Mortgage, Ltd., and assigned to Freddie Mac as recorded in Instrument # 2000-32059 and continued in Instrument # 20050411000166360.