20071026000496310 1/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

This Instrument Prepared By:
John W. Monroe, Jr. of
Emmanuel, Sheppard and Condon
30 South Spring Street
Pensacola, Florida 32502
(850) 433-6581
A0458-116566

NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, THE MAXIMUM AMOUNT SECURED BY THIS INSTRUMENT SHALL NOT EXCEED $100,000,000.00. MORTGAGE RECORDING PRIVILEGE TAX IN THE AMOUNT OF $ 4,890.00 SHALL BE PAID IN ACCORDANCE WITH THAT CERTAIN APPORTIONMENT ORDER OF THE ALABAMA DEPARTMENT OF REVENUE, A COPY OF WHICH IS SUBMITTED HEREWITH.

MORTGAGE AND SECURITY AGREEMENT
(Alabama)

THIS Mortgage, made this 6th day of July, 2007, between Adams Homes, LLC, an Alabama limited liability company, ("Mortgagor"), whose address is 3000 Gulf Breeze Parkway, Gulf Breeze, Florida 32563, and Bank of America, N.A. (formerly known as NationsBank, N.A., "Mortgagee" or "Lender") whose address for notices under this Mortgage is 100 West Garden Street, Pensacola, Florida 32502.

WITNESSETH:

WHEREAS, Mortgagor and Mortgagee have entered into that certain Amended and Restated Master Loan Agreement ("Loan Agreement"), dated May 18, 2007, which by reference is made a part hereof to the same extent as though set out in full herein; and

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of One Hundred Million Dollars and 00/100 ($100,000,000.00) together with interest thereon (the "Loan" or the "Debt"), as evidenced by that certain Amended and Restated Promissory Note dated May 18, 2007 which Note is a variable rate Note, executed by Mortgagor and delivered to Mortgagee, (the "Note", which term includes any modifications, renewal, extension or alteration thereof), which by reference is made a part hereof to the same extent as though set out in full herein;

NOW, THEREFORE, to secure the performance by Mortgagor of all covenants and conditions of the Note, this Mortgage, and all other instruments securing the Note, and all existing or future notes, loans, guaranties, or other indebtedness owed by Mortgagor, or either or any of them, to Mortgagee, including all future advances, obligatory or otherwise, notwithstanding that such indebtedness is secured by other mortgages, all sums advanced by Mortgagee for the benefit of Mortgagor under any other instrument or otherwise, including without limitation, any amounts paid by Mortgagee under any letters of credit issued by Mortgagee for the benefit of Mortgagor, and including all expenses or obligations incurred by Mortgagee pursuant to any existing or future mortgage, loan or security agreement, including without limitation, those items set forth in paragraph 1 below, and in order to charge the properties, interests and rights hereinafter described with such payment and performance and for and in consideration of the sum of Ten and no/100 Dollars ($10.00), Mortgagor does hereby grant, bargain, sell, assign, transfer, convey and mortgage to Mortgagee, together with a power of sale, and, where applicable, grant a security interest in:

THIS MORTGAGE IS EXECUTED IN MULTIPLE COUNTERPARTS FOR PURPOSES OF SIMULTANEOUSLY RECORDING THE MORTGAGE IN MADISON, SHELBY AND ST. CLAIR COUNTIES, ALABAMA.

20071026000496310 2/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

I. THE MORTGAGED PROPERTY

(A) Those certain parcels of land in State of Alabama, and more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein

(the "Land"), to have and to hold the same, together with each and every tenement, hereditament, easement, right, power, privilege, immunity and appurtenance thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, and also the estate, right, title, interest, homestead, right of dower, separate estate, property, possession and claim whatsoever in law as well as in equity of Mortgagor of, in and to the same in every part and parcel thereof unto Mortgagee in fee simple.

(B) (i) All goods which are now or hereinafter affixed and goods which are to become affixed to the Land, in which Mortgagor now or hereafter has any rights; (ii) all inventory and all materials now or hereafter delivered to the Land for use in any way thereon, in which Mortgagor now or hereafter has any rights; (iii) all accounts receivable, general intangibles, actions and rights in action, in which Mortgagor now or hereafter has any rights including all rights of Mortgagor under all contracts with any architect, engineer, surveyor, subcontractor and materials supplied in connection with the Land, all of which contracts are hereby assigned to the Mortgagee, together with all plans, specifications, drawings, schedules and copyrights included therein, all rights to insurance policies and proceeds, all licenses, building and business permits, and all utility reservations and rights to receive utility services and all rights to and under fees or charges paid by Mortgagor or on its behalf in connection with the Land; (iv) all equipment, including parts, accessories, attachments, special tools, additions and accessions thereto, in which Mortgagor now has or hereafter acquires any rights, used or useful in connection with the Land; and (v) all proceeds, products, replacements, additions, substitutions, renewals and accessions of any of the foregoing items. This Mortgage is a self-operative security agreement with respect to the above described property, but Mortgagor agrees to execute and deliver on demand such other security agreements, financing statements and other instruments as Mortgagee may request in order to perfect is security interest or to impose the lien hereof more specifically upon any of such property. Mortgagee shall have all the rights and remedies in addition to those specified herein of a secured party under the Alabama Uniform Commercial Code.

(C) All buildings, structures, and improvements, rents, issues, profits, revenue, income, proceeds, and other benefits flowing or derived from the property described in paragraphs (A) and (B) hereof, together with all leases thereof now made or hereafter entered into, whether written or verbal, provided however, that permission is hereby given to Mortgagor so long as no default has occurred hereunder, to collect, receive, and use such benefits from the property as they become due and payable, but not in advance thereof.

(D) All contract rights, commissions, money, deposits, certificates of deposit, letters of credit, documents, instruments, chattel paper, accounts, and general intangibles (as such terms are from time to time defined in the Uniform Commercial Code as adopted by the State of Alabama) in any manner related to the construction, use, operation, sale, conversion, or other disposition (voluntary or involuntary) of the Property, appurtenances thereto, improvements, tangible property, or rents, including all construction plans and specifications, permits, governmental or quasi-governmental approvals, licenses, developers rights, vested rights under any Planned Unit Developments or Development of Regional Impact or other project, zoning, or land use approval, insurance policies, rights of action and other choses in action. In addition to the above, all of Mortgagor's rights and interests under all Swap Contracts (as defined below), including all rights to the payment of money from Mortgagee under any Swap Contract and all accounts, deposit accounts and general intangibles, including payment intangibles, described in any Swap Contract. The property interests encumbered and described in this paragraph are called the "Contract Rights" in this Mortgage. Notwithstanding the foregoing, Mortgagee will not be bound by any of

Mortgagor's obligations under any of the foregoing contracts unless and until Mortgagee elects to assume any of such contracts or leases in writing.

(E) All proceeds of the conversion, voluntary or involuntary, of any of the property encumbered by this mortgage into cash or other liquidated claims, including all judgments, settlements, and insurance and condemnation proceeds.

Everything referred to in paragraphs (A), (B), (C), (D), and (E) hereof and any additional property hereafter acquired by Mortgagor and subject to the lien of this Mortgage or any part of these properties is herein referred to as the "Mortgaged Property" or the "Collateral."

PROVIDED ALWAYS, that if Mortgagor shall pay to Mortgagee the sums due under the Note at the times and in the manner stipulated therein, and faithfully perform all of the covenants and agreements in this Mortgage, the Loan Agreement, and in all other instruments securing the Note, to be kept, performed or observed by Mortgagor, and all periods of time for recovery of payments or proceeds of property securing the Note under any bankruptcy or insolvency law affecting Mortgagor or Mortgagee in connection with the Note secured hereby have elapsed, then this Mortgage shall cease and be void, but shall otherwise remain in full force and effect.

To the extent any of the Mortgaged Property encumbered by this Mortgage constitutes personal property subject to the provisions of the Uniform Commercial Code, as adopted by the State of Alabama, this Mortgage constitutes a "Security Agreement" for all purposes under the Uniform Commercial Code. Without limitation, Mortgagee, at its election, upon the occurrence of a default under this Mortgage, will have all rights, powers, privileges and remedies from time to time available to a secured party under the provisions of the Uniform Commercial Code with respect to the Mortgaged Property. The names and address of debtor and secured party are as shown for the Mortgagor and Mortgagee, respectively, on the first page of this Mortgage. The remedies for any violation of the covenants, terms, and conditions of the security agreement herein contained shall be (i) as prescribed herein; (ii) as prescribed by general law; or (iii) as prescribed by the specific statutory provisions now or hereafter enacted and specified in the Uniform Commercial Code, all at Mortgagee's election.

II. COVENANTS OF MORTGAGOR

1. **Debt.** Mortgagor is justly indebted to Mortgagee in the principal amount indicated above (or so much as may be advanced to Mortgagor by Mortgagee from time to time), as evidenced by the Note.

Mortgagor's obligations described below are secured, among other things, by the collateral described in this Mortgage, which term includes any and all amendments, extensions, renewals, replacements, substitutions, modifications and consolidations of this Mortgage, and may also from time to time be secured by other collateral described in written documents. The Mortgage and such other documents as may exist on the date hereof or may exist hereafter are referred to as the "Security Documents," which term, as defined in the Note, includes any and all financing statements, letters of credit, assignments, agreements, supplements, and riders made and delivered in connection with the Note and this Mortgage, and any and all amendments, modifications, extensions, renewals, replacements, substitutions and consolidations thereof or thereto. The Security Documents, the Note, the Loan Agreement, the Hazardous Waste Certification and Indemnification between Mortgagor and Mortgagee, and any and all Swap Contracts are referred to collectively as the "Loan Documents." All sums disbursed pursuant to the terms of the Loan Agreement shall be secured by this Mortgage with the same priority as if advanced on the date hereof. For the purposes of this Mortgage, the term "Swap Contract" means any agreement, whether or not in writing, relating to any transaction that is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond, note or bill option, interest rate option, forward foreign exchange transaction, interest cap, collar

20071026000496310 3/17 $60.00
Shelby Cnty Judge of Probate, AL
10/26/2007 03:34:02PM FILED/CERT

or floor transaction, currency swap, cross-currency rate swap, swap option, currency option or any other similar transaction (including any option to enter into the foregoing) or any combination of the foregoing, and, unless the context otherwise clearly requires, any form of master agreement published by the International Swaps and Derivatives Association, Inc., or any other master agreement, entered into between Mortgagee (or its affiliate) and Mortgagor (or its affiliate) in connection with the Loan, together with any related schedules and confirmations, as amended, supplemented, superseded or replaced from time to time, relating to or governing any or all of the foregoing.

The obligations of Mortgagor secured by the Security Documents arising pursuant to the Loan Documents are as follows and are referred to, at times, as the "Debt" in this Mortgage and the other Loan Documents:

(a) Note. Mortgagor's payment of all sums due from time to time as evidenced by the Note; and

(b) Loan Documents. Mortgagor's payment or performance of all obligations imposed upon Mortgagor by the Loan Documents, including without limitation, the payment and performance of Mortgagor's obligations of Mortgagor under any Swap Contract; and

(c) Advances. All sums advanced by Mortgagee to or for the benefit of Mortgagor in the manner provided in the Loan Documents, or for the protection of the security of the Collateral, including, without limitation, all sums advanced pursuant to this Mortgage, including advances for repairs, maintenance, insurance, taxes, or assessments; and

(d) Costs. All costs, expenses, losses, damages and other charges sustained or incurred by Mortgagee because of: (i) Mortgagor's default in payment or performance, as the case may be, of any provision contained in the Loan Documents; (ii) defense of actions instituted by Mortgagor or a third party against Mortgagee arising out of or related to the Loan, or (iii) actions brought or defended by Mortgagee enforcing Mortgagee's security interest in the Collateral. All of these costs and expenses include reasonable attorneys' fees, paralegals' fees, or legal assistants' fees, whether incurred with respect to collection, litigation, arbitration, Bankruptcy proceedings, interpretation, dispute, negotiation, trial, appeal, defense of actions instituted by a third party against Mortgagee, or enforcement of any judgment based on the Loan Documents, whether or not suit is brought to collect such amounts or to enforce such rights or, if brought, is prosecuted to judgment.

(e) Letters of Credit. All sums advanced by Mortgagee for the benefit of Mortgagor under any other instrument or otherwise, including, without limitation, any amounts paid by Mortgagee under any letters of credit issued by Mortgagee for the benefit of Mortgagor.

(f) Miscellaneous Expenses. All costs and expenses incurred by Mortgagee in connection with the Loan, whether prior to or at closing or during the term thereof, including, without limitation, loan origination fees, commitment fees, extension fees, title insurance search fees, premiums and endorsement fees, hazard and other insurance required by the Loan Documents, pre-closing and post-closing appraisals, appraisal reports or opinions of value, surveys, brokerage commissions and claims of brokerage, ad valorem and personal property taxes, documentary stamp taxes and intangible taxes, attorneys' fees, consultant fees, architect's fees, construction consultant's fees, environmental surveys or assessments, and recording charges.

(g) Indemnities. All costs, expenses, and amounts arising under or pursuant to any indemnity contained within the Loan Documents or in any separate agreement executed by Mortgagor in favor of Mortgagee including, without limitation, the Hazardous Substance Certificate and Indemnification Agreement (the "Indemnity").

20071026000496310 4/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

2. **Title Warranties**. Subject to the Permitted Encumbrances (as hereinafter defined), Mortgagor covenants with Mortgagee that: (i) Mortgagor is indefeasibly seized of the Land and the improvements located thereon in fee simple, has good and marketable title to the Collateral and has full power, lawful right and authority to convey the same in fee simple and to grant Mortgagee a perfected first lien security interest in the Collateral, and (ii) the Collateral is free and clear of all liens, encumbrances, restrictions, and security interests of any nature except for those permitted encumbrances which Mortgagee has previously approved, as set out in Schedule B of the title insurance policy and endorsements insuring this Mortgage, which are referred to as "Permitted Encumbrances" in this Mortgage.

3. **Payment of Taxes and Liens.** Mortgagor shall pay all taxes, assessments, liens, levies, liabilities, obligations and encumbrances of every nature and kind whether now or hereafter imposed, levied or assessed on the Mortgaged Property, this Mortgage or the indebtedness secured hereby or which may become a lien thereon. All such payments shall be made when due and payable before they become delinquent and before any interest accrues or any penalty is incurred. Insofar as any such lien or encumbrances are of record, the same shall be promptly satisfied or released and evidence of such satisfaction or release shall be given to Mortgagee. Mortgagee may at its option at any time, require Mortgagor to deposit with Mortgagee on the first day of each month, in addition to making payments of principal and interest, until the Note is fully paid, an amount equal to one-twelfth (1/12) of the annual taxes and assessments payable with respect to the Mortgaged Property. Such deposits shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee, and no interest shall be payable in respect thereof. Upon demand by Mortgagee, Mortgagor shall deliver to Mortgagee such additional monies as are necessary to enable Mortgagee to pay such taxes and assessments when due. In the event of default under any of the terms, covenants and conditions in the Note, the Loan Agreement, this Mortgage or any other instrument securing the Note to be performed or observed by Mortgagor, Mortgagee may apply to the reduction of the sums secured hereby, in such manner as Mortgagee shall determine, any amount under this paragraph remaining to Mortgagor's credit. Mortgagee shall have no obligation to pay taxes and assessments except to the extent of such deposits.

4. **Insurance.** Mortgagor shall keep the improvements now existing or hereafter erected on the Mortgaged Property and all parts of the Mortgaged Property insured as may be required from time to time under the terms of the Loan Agreement against loss by fire, flood and hazards included within the term "extended coverage," and such other hazards as Mortgagee may require, in such amounts and for such periods as may be required by Mortgagee, and to pay promptly, when due, all premiums for such insurance. All such insurance shall be carried with companies approved by Mortgagee, and the policy and renewals thereof shall be held by Mortgagee and have attached thereto Lender's loss payable clauses in favor of and in form acceptable to Mortgagee. In event of loss, Mortgagor shall give immediate notice by mail to Mortgagee and Mortgagee may make proof of loss if not made promptly by Mortgagor, and each insurance company concerned is hereby authorized and directed to make payments for such loss directly to Mortgagee, instead of to Mortgagor or to Mortgagor and Mortgagee jointly. The insurance proceeds or any part thereof may be applied by Mortgagee at its option, after deducting therefrom all its expenses, either to reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. Mortgagee is hereby authorized, at its option, to settle and compromise any claims, awards, damages, rights of action and proceeds, and any other payment or relief under any insurance policy. In the event of foreclosure of this Mortgage or other transfer of title to the Mortgaged Property in extinguishment of the indebtedness secured hereby, all right, title, and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee. Mortgagee may at is option require Mortgagor to deposit with Mortgagee on the first day of each month, in addition to making payments of principal and interest, until the Note is fully paid, an amount equal to one-twelfth *(1/12)* of the annual premiums for all insurance. Such deposits shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee, and no interest shall be payable in respect thereof. Upon demand by Mortgagee, Mortgagor shall deliver to Mortgagee such additional monies as are necessary to make up any deficiencies in the amounts necessary to enable Mortgagee to pay such

20071026000496310 5/17 $60.00
Shelby Cnty Judge of Probate, AL
10/26/2007 03:34:02PM FILED/CERT

premiums when due. In the event of default under any of the terms, covenants and conditions in the Note, the Loan Agreement, this Mortgage or any other instrument securing the Note to be kept, performed or observed by Mortgagor, Mortgagee may apply to the reduction of the sums secured hereby, in such manner as Mortgagee shall determine, any amount under this paragraph remaining to Mortgagor's credit and any return premium received from cancellation of any insurance policy by Mortgagee upon foreclosure of this Mortgage.

5. **Condemnation.** If all or any part of the Mortgaged Property or any interest therein shall be damaged or taken through condemnation by any governmental authority or any other authority authorized by the laws of the State of Alabama or the United States of America or there is a transfer by private sale in lieu thereof, either temporarily or permanently, then the entire indebtedness and other sums secured hereby shall, at the option of Mortgagee, become immediately due and payable. Mortgagee shall be entitled to all compensation awards, damages claims, rights of action and proceeds of, or on account of any such damage or taking through condemnation and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or Mortgagor's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation awards, damages, claims, rights of action and proceeds, and any other payments or relief, and the right thereto, are hereby assigned by Mortgagor to Mortgagee, who, after deducting therefrom all its expenses including attorneys' fees, may release any monies so received by it without affecting the lien on this Mortgage or may apply the same, in such manner as Mortgagee shall determine, to the reduction of the sums secured hereby. Any balance of such monies then remaining shall be paid to Mortgagor. Mortgagor agrees to execute such further assignments of any compensation, awards, damages, claims, rights of action and proceeds, and any other payments or relief, and the right thereto, are hereby assigned by Mortgagor to Mortgagee, who, after deducting therefrom all its expenses including attorneys' fees, may release any monies so received by it without affecting the lien on this Mortgage or may apply the same, in such manner as Mortgagee shall determine to the reduction of the sums secured hereby.

6. **Care of Mortgaged Property.** Mortgagor shall not remove or demolish any building or other property forming a part of the Mortgaged Property without the written consent of Mortgagee, or permit, commit, or suffer any waste, impairment or deterioration of the Mortgaged Property or any part thereof, and shall keep the same and the improvements thereon in good condition and repair. Mortgagor shall notify Mortgagee in writing within five (5) days of any injury, damage, or impairment of or occurring on the Mortgaged Property including, but not limited to, serious injury or loss by death or otherwise occurring on the Mortgaged Property. Mortgagee may, at Mortgagee's discretion, have the Mortgaged Property inspected at the time and Mortgagor shall pay all costs incurred by Mortgagee in executing such inspection.

7. **Mortgagee's Right to Make Certain Payments.** In the event Mortgagor fails to pay and/or discharge the taxes, assessments, liens, levies, liabilities, obligations and encumbrances, or fails to keep the Mortgaged Property insured or to deliver the policies with premiums paid, or fails to repair the Mortgaged Property as herein agreed, Mortgagee is hereby authorized at is election to pay and/or discharge the taxes, assessments, liens, levies, liabilities, obligations and encumbrances or any part thereof, to procure and pay for such insurance or to make and pay for such repairs, without any obligation on its part to determine the validity and/or necessity thereof, and without Mortgagee waiving or affecting any option, lien, equity or right under or by virtue of this Mortgage. The full amount of each and every such payment made by Mortgagee will be added to the principal amount due under the Note, and shall be immediately due and payable by Mortgagor and shall bear interest from the date each such payment is made by Mortgagee until paid at the Default Rate, as hereinafter defined, and together with such interest, shall be secured by the lien of this Mortgage. Nothing herein contained shall be construed as requiring Mortgagee to advance or expend monies for any of the purposes mentioned in this paragraph.

8. **Payment of Expenses.** Mortgagor shall pay all of the costs, charges and expenses, including reasonable attorneys' fees, paralegals' fees, and service tax thereon, whether incurred at the trial or appellate level or in arbitration, disbursements and costs of abstracts of title or other title evidence, appraisals,

20071026000496310 6/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

reappraisals, or environmental assessments incurred or paid at any time by Mortgagee, in the event of the failure on the part of Mortgagor promptly and fully to perform, comply with and abide by any stipulation, agreement, condition or covenant of the Note, the Loan Agreement, this Mortgage or any other instrument securing the Note. Such costs, charges and expenses shall be immediately due and payable without notice or demand. If such costs and fees are not timely paid by Mortgagor, Mortgagee, without waiving or impairing any other of its rights or remedies, and without demand on Mortgagor, may make such payment on Mortgagor's behalf. The full amount of each and every such payment shall be immediately due and payable and shall bear interest from the date Mortgagee makes such payment until paid at the rate as set forth in the Note applicable to periods when default exists thereunder ("Default Rate"). All such costs, charges and expenses so incurred or paid, together with such interest, shall be secured by the lien of this Mortgage.

9. **Construction Loan.** The Mortgagor will cause the improvements specified in the Loan Agreement to be constructed in accordance with all of the terms, provisions and conditions specified therein, will pursue such construction with due diligence and complete same on or before the date of completion specified in the Loan Agreement will comply with all the covenants made by it in the Loan Agreement and will permit no default to occur thereunder. Reference is made herein to the Loan Agreement for all purposes to the same extent and effect as if the Loan Agreement was fully set forth herein and made a part of this Mortgage.

In the event of the Mortgagor's failure to carry on or complete construction of the Improvements (as defined in the Loan Agreement) or other default of the Mortgagor under the Loan Agreement and whether or not the Mortgagee shall cause the indebtedness secured hereby to become immediately due and payable, the Mortgagee, after due notice to the Mortgagor, is hereby vested with full and complete authority to enter upon the Mortgaged Property to employ watchmen to protect the Mortgaged Property from injury and to preserve and protect the personal property therein, to continue any and all outstanding contracts for erection and completion of the improvements on the Mortgaged Property, to make and enter into any contracts and obligations wherever necessary, either in its own name as Mortgagee hereunder or in the name of the Mortgagor, and pay and discharge all debts, obligations and liabilities incurred thereby. All sums so advanced by the Mortgagee (exclusive of advances of the principal of the indebtedness) shall be an advancement governed by Paragraph 6 hereof.

10. **No Transfer.** Subject to the release provisions contained in the Loan Agreement, Mortgagor may not sell, convey, assign, transfer or otherwise dispose of any interest in all or a portion of the Mortgaged Property, or any ownership interest in Mortgagor or any guarantor, without Mortgagee's prior written consent, which consent may be withheld in Mortgagee's sole discretion. Whether such transfer is voluntary or involuntary, or by operation of law (other than in connection with the death or incompetency of any individual Mortgagor), any such transfer shall be void as to Mortgagee, and constitute an immediate default under this Mortgage, without notice, in the sole discretion of Mortgagee. Mortgagee's consent to any transfer, sale, or conveyance hereunder shall not be deemed a consent to any subsequent transfer, sale, or conveyance for which Mortgagee's prior written approval has not been obtained.

If Mortgagor is an entity, a sale, assignment, pledge, transfer, hypothecation, encumbrance or lien on any legal or beneficial interest in Mortgagor or of any ability to exert control of Mortgagor, shall be deemed to be a transfer of the Mortgaged Property and a default hereunder.

11. **After-Acquired Property.** Without the necessity of any further act of Mortgagor or Mortgagee, the lien of and security interest created by this Mortgage automatically will extend to and include (i) any and all renewals, replacements, substitutions, accessions, proceeds, products, additions or after-acquired property for or to the Collateral, and (ii) any and all monies, proceeds and other property

20071026000496310 7/17 $60.00
Shelby Cnty Judge of Probate, AL
10/26/2007 03:34:02PM FILED/CERT

that from time to time, either by delivery to Mortgagor or by any instrument (including this Mortgage) may be subjected to such lien and security interest by Mortgagor or by anyone on behalf of Mortgagor, or with the consent of Mortgagor, or which otherwise may come into the possession or otherwise be subjected to the control of Mortgagee or Mortgagor pursuant to this Mortgage or the other Loan Documents.

12. **Additional Documents.** At any time, upon Mortgagee's request, Mortgagor shall make, execute and deliver or cause to be made, executed and delivered to Mortgagee and, where appropriate, shall cause to be recorded or filed in such offices and places as shall be deemed desirable by Mortgagee any and all further mortgages, instruments or further assurance, certificates and other documents as Mortgagee may consider necessary or desirable in order to effectuate, complete, enlarge or perfect, or to continue and preserve the obligations of Mortgagor under the Note and this Mortgage, and the lien of this Mortgage as a first prior lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by Mortgagor. Upon any failure by Mortgagor to do so, Mortgagee may make, execute, record, file, re-record or refile any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee agent and attorney-in-fact of Mortgagor to do so.

III. EVENTS OF DEFAULT

13. **Subject to the grace periods and Notice Provisions contained herein and in the Note, Loan Agreement or any other Instruments securing the Note, any one of the following shall constitute an "Event of Default":**

(a) Scheduled Payment. Mortgagor's failure to make any payment required by the Note when due.

(b) Monetary Default. Mortgagor's failure to make any other payment required by this Mortgage or the other Loan Documents when due.

(c) Other. Mortgagor's failure to perform any other obligation imposed upon Mortgagor by this Mortgage or the other Loan Documents within 30 days after the date when performance is due. This provision shall not be construed to provide Mortgagor with any grace period in complying with any obligations imposed on Mortgagor by the terms of the Loan Documents.

(d) Representation. Any representation or warranty of Mortgagor contained in this Mortgage or in any certificate delivered pursuant hereto, or in any other instrument or statement furnished in connection herewith, proves to be incorrect or misleading in any adverse respect as of the time when the same shall have been made, including, without limitation, any and all financial statements, operating statements, or schedules attached thereto, furnished by Mortgagor or any guarantor of the Debt to Mortgagee or pursuant to any provision of this Mortgage.

(e) Bankruptcy. Mortgagor, or any general partner of Mortgagor or any guarantor of the Debt (i) files a voluntary petition in Bankruptcy or a petition or answer seeking or acquiescing in any reorganization or for an arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself pursuant to the United States Bankruptcy Code or any similar law or regulation, federal or state relating to any relief for debtors, now or hereafter in effect; or (ii) makes an assignment for the benefit of creditors or admits in writing its inability to pay or fails to pay its debts as they become due; or (iii) suspends payment of its obligations or takes any action in furtherance of the foregoing; or (iv) consents to or acquiesces in the

20071026000496310 8/17 $60.00
Shelby Cnty Judge of Probate, AL
10/26/2007 03:34:02PM FILED/CERT

appointment of a receiver, trustee, custodian, conservator, liquidator or other similar official of Mortgagor, a general partner of Mortgagor, or any guarantor, for all or any part of the Collateral or other assets of such party, or either; or (v) has filed against it an involuntary petition, arrangement, composition, readjustment, liquidation, dissolution, or an answer proposing an adjudication of it as a Bankrupt or insolvent, or is subject to a reorganization pursuant to the United States Bankruptcy Code, an action seeking to appoint a trustee, receiver, custodian, or conservator or liquidator, or any similar law, federal or state, now or hereafter in effect, and such action is approved by any court of competent jurisdiction and the order approving the same shall not be vacated or stayed within thirty (30) days from entry; or (vi) consents to the filing of any such petition or answer, or shall fail to deny the material allegations of the same in a timely manner.

(f) Judgments. (1) A final judgment, other than a final judgment in connection with any condemnation, is entered against Mortgagor that (i) adversely affects the value, use or operation of the Collateral, or (ii) adversely affects, or reasonably may adversely affect, the validity, enforceability or priority of the lien or security interest created by this Mortgage or the other Loan Documents, or both; or (2) execution or other final process issues thereon with respect to the Collateral; and (3) Mortgagor does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereon, in any event within thirty (30) days from entry, or Mortgagor shall not, within such period or such longer period during which execution on such judgment shall have been stayed, appeal therefrom or from the order, decree or process upon or pursuant to which such judgment shall have been entered, and cause its execution to be stayed during such appeal, or if on appeal such order, decree or process shall be affirmed and Mortgagor shall not discharge such judgment or provide for its discharge in accordance with its terms within sixty (60) days after the entry of such order or decree or affirmance, or if any stay of execution on appeal is released or otherwise discharged.

(g) Liens. Any federal, state or local tax lien or any claim of lien for labor or materials or any other lien or encumbrance of any nature whatsoever is recorded against Mortgagor or the Mortgaged Property and is not removed by payment or transferred to substitute security in the manner provided by law, within ten (10) days after it is recorded in accordance with applicable law.

(h) Leases. Mortgagor's default in the performance of its obligations as lessor under any lease of all or any portion of the Mortgaged Property, which default could result, in Mortgagee's judgment, in the termination of said lease.

(i) Other Notes or Mortgages. Mortgagor's default in the performance or payment of Mortgagor's obligations under any other note, or under any other mortgage encumbering all or any part of the Mortgaged Property, if the other mortgage is permitted by Mortgagee, whether such other note or mortgage is held by Mortgagee or by any other party.

(j) Mortgagor Default Under Loan Documents. Mortgagor's default in the payment or performance of any of Mortgagor's obligations under any of the Loan Documents, including this Mortgage and any riders thereto.

(k) Guarantor Default. The death of a guarantor, if an individual, or any default in the payment or performance of any obligation of any guarantor of the Note arising under its guaranty or pursuant to any of the other Loan Documents.

(l) Mortgagor's Continued Existence. Mortgagor shall cease to exist or to be qualified to do or transact business in the State in which the Mortgaged Property is located or be dissolved or shall be a party to a merger or consolidation, or shall sell all or substantially all of its assets, or the death of any individual being a Mortgagor.

20071026000496310 9/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

(m) Stock in Mortgagor/Change in Partners: If, without the prior written consent of Mortgagee, any shares of stock of Mortgagor are issued, sold, transferred, conveyed, assigned, mortgaged, pledged, or otherwise disposed of so as to result in change of control of Mortgagor, whether voluntarily or by operation of law, and whether with or without consideration, or any agreement for any of the foregoing is entered into; or, if Mortgagor is a partnership, any general partnership interest or other equity interest in the partnership is sold, transferred, assigned, conveyed, mortgaged, pledged, or otherwise disposed of, whether voluntarily or by operation of law, and whether with or without consideration, or any agreement for any of the foregoing is entered into, or any general partner of Mortgagor withdraws from the partnership.

(n) Stock of General Partner of Mortgagor. If, without the prior written consent of Mortgagee, any shares of stock of any corporation that is a general partner of Mortgagor or a general partner of a partnership that is a general partner of Mortgagor are issued, sold, transferred, assigned, conveyed, mortgaged, pledged or otherwise disposed of, whether voluntarily or by operation of law, and whether with or without consideration, or any agreement for any of the foregoing is entered into, executed or delivered, or any general partnership interest in any general partnership that is itself a general partner of Mortgagor is sold, transferred, assigned, conveyed, mortgaged, pledged or otherwise disposed of, whether voluntarily or by operation of law, and whether with or without consideration, or any agreement for any of the foregoing is entered into.

(o) Transfer of Property or Ownership. Any sale, conveyance, transfer, assignment, or other disposition of all or any part of the Collateral or any ownership interest in Mortgagor or any guarantor in violation of paragraph 10 above.

(p) False Statement. Any statement or representation of Mortgagor or any guarantor contained in the loan application or any financial statements or other materials furnished to Mortgagee or any other lender prior or subsequent to the making of the loan secured hereby are discovered to have been false or incorrect or incomplete.

(q) Default Under Indemnity. Mortgagor or any guarantor shall default under any obligation imposed upon Mortgagor by any indemnity whether contained within any of the Loan Documents, the Hazardous Waste Certification and Indemnification, or otherwise.

(r) Failure to pay and perform all obligations of Mortgagor (and each of them and their respective affiliates) under any Swap Contract.

IV. REMEDIES OF MORTGAGEE

14. **Acceleration.** If an Event of Default shall have occurred, Mortgagee may declare the outstanding principal amount of the Note and the interest accrued thereon, and all other sums secured hereby, to be due and payable immediately, and upon such declaration such principal and interest and other sums shall immediately become due and payable without demand, notice or presentment for payment. In addition to its right to accelerate the Debt, Mortgagee may also terminate any Swap Contract and such Swap Contracts shall immediately terminate.

15. **Other Remedies.** If an Event of Default shall have occurred, Mortgagee may proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy; (a) to enforce payment of the Note or the performance of any term hereof or any other right provided by the Note or Loan Agreement; (b) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property under the power of sale granted herein or the judgment or decree of a court of competent jurisdiction; (c) to collect all rents, issues, profits, revenues, income, proceeds or other benefits from the Mortgaged Property; (d) to seek appointment of a receiver to enter upon and take possession of the Mortgaged Property and to collect all rents, issues, profits, revenues, income or other benefits thereof and apply the same as the Court may direct and such receiver shall have all rights and

20071026000496310 10/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

powers permitted under law; (e) to exercise any right or remedy available to Mortgagee as a secured party under the Uniform Commercial Code as adopted by the State of Alabama; and (f) to pursue any other remedy available to it. Any judgment against the Mortgagor shall bear interest at the Maximum Rate (as defined in the Note).

(A) Foreclosure. The Mortgagee shall have the right to foreclose the lien of this Mortgage and obtain possession of the Mortgaged Property, by any lawful procedure, including, without limitation, pursuant to the power of sale granted herein. Upon the occurrence of an Event of Default, or at any time thereafter, 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, at its option, whether or not possession of the Mortgaged Property is taken, after giving twenty-one days notice by publication once a week for three consecutive weeks of the time, place and terms of each such sale by publication in some newspaper published in the county wherein the Mortgaged Property or any part thereof is located, to sell the Mortgaged Property (or such part or parts thereof as the Mortgagee may from time to time elect to sell) in front of such county's courthouse door, at public outcry, to the highest bidder for cash. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. 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 Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse 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 sell the Mortgaged Property 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 Mortgaged Property not previously sold shall have been sold or the Note secured hereby shall have been paid in full.

(B) Application of Proceeds. All payments received by the Mortgagee as proceeds of the Mortgaged Property, or any part thereof, as well as any and all amounts realized by the Mortgagee in connection with the enforcement of any right or remedy under or with respect to this Mortgage, shall be applied by the Mortgagee as follows: (i) to the payment of all necessary expenses incident to the execution of any foreclosure sale or sales or other remedies under this Mortgage, including reasonable attorneys' fees as provided herein and in the Note and the other Loan Documents, (ii) to the payment in full of the portion of the Note that is then due and payable (including without limitation principal, accrued interest and all other sums secured hereby) and to the payment of attorneys' fees as provided herein and in the Note, (iii) to a cash collateral reserve fund to be held by the Mortgagee in an amount equal to, and as security for, any of the debt evidenced by the Note that is not then due and payable, and (iv) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(C) Multiple Sales. Upon the occurrence of a Default or at any time thereafter, the Mortgagee shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole debt evidenced by the Note due. Any such sale may be made subject to the unmatured part of the debt secured by this Mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the debt secured by this Mortgage, but as to such unmatured part of the debt, this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the debt whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Mortgaged Property for any matured part of the debt without exhausting any power of foreclosure and the power to sell the Mortgaged Property for any other part of the debt, whether matured at the time or subsequently maturing.

20071026000496310 11/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

(D) Prerequisites of Sales. In case of any sale of the Mortgaged Property as authorized by this paragraph, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Debt or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

16. **No Waiver.** No delay or omission of Mortgagee to insist, at any time, upon strict performance of any covenant, provision or condition of this Mortgage or to exercise any right, power or remedy accruing upon any Event of Default shall be construed as a waiver or relinquishment of such covenant, provision, condition, right, power or remedy. Receipt by Mortgagee of any monthly installment of principal and/or interest due under the Note with knowledge, whether actual or constructive, of the breach of any covenant provision or condition of this Mortgage shall not be deemed a waiver of such breach. In no event shall Mortgagee be deemed to have made a waiver hereunder unless the waiver is expressed in a document signed by the Mortgagee and stating with specificity the covenant, provision, condition, right, power, or remedy being waived.

V. MISCELLANEOUS

17. **Successors and Assigns Bound.** Whenever one of the parties hereto is named or referred to herein, the heirs, personal representatives, successors and assigns of such party shall be included and all covenants and agreements contained in this Mortgage, by or on behalf of Mortgagor or Mortgagee, shall bind and inure to the benefit of their respective heirs, personal representatives, successors and assigns.

18. **Invalid or Unenforceable.** In the event that any of the covenants, agreements, terms or provisions contained in the Note, this Mortgage or any other instrument securing the Note shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreement, terms or provisions contained herein and in the Note and any other instrument securing the Note shall be in no way affected, prejudiced or disturbed thereby.

19. **Future Advances.** This Mortgage shall secure not only existing indebtedness, but also such future advances made to Mortgagor, or its successors in title to the Mortgaged Property, whether such advances are obligatory or are to be made at the option of Mortgagee, or otherwise, as are made with twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of the execution of this Mortgage and although there may be no indebtedness outstanding at the time any advance is made. The amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at one time shall not exceed twice the face amount of the Note, plus interest thereon and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property.

20. **Obligation of Mortgagor.** Mortgagor shall pay the cost of releasing or satisfying this Mortgage of record. Each party executing this Mortgage shall be jointly and severally liable hereunder.

21. **Hazardous Waste.** Without limiting any rights of Mortgagee under the Loan Documents or applicable laws, (a) the Mortgagor represents and warrants to Mortgagee that to the best of Mortgagor's knowledge and except as used in the ordinary course of business, (i) the Mortgaged Property is free of any substance which could pose a hazard to the environment or the health or safety of persons on or about the Mortgaged Property or which is classified as hazardous or toxic in or pursuant to any law or restriction relating to health or the environment ("Hazardous Material"); and (ii) there is no claim or inquiry threatened, instituted or completed concerning the presence or discharge of any Hazardous Material on, in, under or about the Mortgaged Property (and Mortgagor will promptly advise Mortgagee in writing as soon as Mortgagor first obtains knowledge of any such claim or inquiry

20071026000496310 12/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

heretofore or hereafter occurring); (b) Mortgagor will not place or allow to remain any Hazardous Material, on, in, under or about the Mortgage Property; and (c) Mortgagor agrees to indemnify and hold harmless Mortgagee, its successors and assigns, and their respective directors, officers, employees, agents, and affiliates, from and against any and all claims, damages, losses, costs, fines, penalties, liabilities and expenses (including, but not limited to, attorneys' fees and costs) arising in whole or in part from the presence of any Hazardous Material, on, in, under, or about the Mortgaged Property at any time prior to full and final release or foreclosure (or transfer in lieu of foreclosure) of this Mortgage, regardless of the cause and regardless of when asserted, imposed, or incurred. The foregoing provisions regarding environmental matters shall be cumulative of all other obligations or Mortgagor and all other rights and remedies of Mortgagee, and the foregoing indemnities shall survive any modification of the Note, payment of the debt evidenced by the Note, and foreclosure (or transfer in lieu thereof), any debtor relief proceeding and the release or other termination of this Mortgage. Mortgagor agrees, upon reasonable request of Mortgagee, to provide Mortgagee from time to time (and at Mortgagor's expense) with a current environmental assessment of the Mortgaged Property within a reasonable time after such request. Such assessment shall be in a form satisfactory to Mortgagee and from an environmental consultant satisfactory to Mortgagee.

22. **Defeasance and Satisfaction.** The lien and security interest provided by this Mortgage will continue unimpaired and in full force and effect unless and until the obligations secured hereby are paid in full, whereupon such lien and security interest will be without further force and effect.

23. **Time of the Essence.** Time is of the essence with respect to each and every covenant, agreement, and obligation of Mortgagor under this Mortgage and the other Loan Documents, and any and all other instruments nor or hereafter evidencing, securing or otherwise relating to the Loan.

24. **Oral Modification Ineffective.** No term of this Mortgage or any other of the Loan Documents, or such documents, may be waived, changed, modified, discharged, or terminated except by an instrument in writing signed by the party against which enforcement of the waiver, change, modification, discharge or termination is sought.

25. DISPUTE RESOLUTION.

(a) Arbitration. Except to the extent expressly provided below, any Dispute shall, upon the request of either party, be determined by binding arbitration in accordance with the Federal Arbitration Act, Title 9, United States Code (or if not applicable, the applicable state law), the then-current rules for arbitration of financial services disputes of the American Arbitration Association, or any successor thereof ("AAA"), and the "Special Rules" set forth below. "Dispute" means any controversy, claim or dispute between or among the parties to this Mortgage, including any controversy, claim or dispute arising out of or relating to (a) this Mortgage, (b) any other Loan Documents, (c) any related agreements or instruments, or (d) the transaction contemplated herein or therein (including any claim based on or arising from an alleged personal injury or business tort). In the event of any inconsistency, the Special Rules shall control. The filing of a court action is not intended to constitute a waiver of the right of Mortgagor or Lender, including the suing party, thereafter to require submittal of the Dispute to arbitration. Any party to this Mortgage may bring an action, including a summary or expedited proceeding, to compel arbitration of any Dispute in any court having jurisdiction over such action. For the purposes of this Dispute Resolution Section only, the terms "party" and "parties" shall include any parent corporation, subsidiary or affiliate of Lender involved in the servicing, management or administration of any obligation described in or evidenced by this Mortgage, together with the officers, employees, successors and assigns of each of the foregoing.

20071026000496310 13/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

(b) Special Rules.

(i) The arbitration shall be conducted in any U.S. state where real or tangible personal property collateral is located, or if there is no such collateral, in the City and County where Lender is located pursuant to its address for notice purposes in this Mortgage.

(ii) The arbitration shall be administered by AAA, who will appoint an arbitrator. If AAA is unwilling or unable to administer or legally precluded from administering the arbitration, or if AAA is unwilling or unable to enforce or legally precluded from enforcing any and all provisions of this Dispute Resolution Section, then any party to this Mortgage may substitute another arbitration organization that has similar procedures to AAA and that will observe and enforce any and all provisions of this Dispute Resolution Section. All Disputes shall be determined by one arbitrator; however, if the amount in controversy in a Dispute exceeds Five Million Dollars ($5,000,000), upon the request of any party, the Dispute shall be decided by three arbitrators (for purposes of this Mortgage, referred to collectively as the "arbitrator").

(iii) All arbitration hearings will be commenced within ninety (90) days of the demand for arbitration and completed within ninety (90) days from the date of commencement; provided, however, that upon a showing of good cause, the arbitrator shall be permitted to extend the commencement of such hearing for up to an additional sixty (60) days.

(iv) The judgment and the award, if any, of the arbitrator shall be issued within thirty (30) days of the close of the hearing. The arbitrator shall provide a concise written statement setting forth the reasons for the judgment and for the award, if any. The arbitration award, if any, may be submitted to any court having jurisdiction to be confirmed and enforced, and such confirmation and enforcement shall not be subject to arbitration.

(v) The arbitrator will give effect to statutes of limitations and any waivers thereof in determining the disposition of any Dispute and may dismiss one or more claims in the arbitration on the basis that such claim or claims is or are barrred. For purposes of the application of the statute of limitations, the service on AAA under applicable AAA rules of a notice of Dispute is the equivalent of the filing of a lawsuit.

(vi) Any dispute concerning this arbitration provision, including any such dispute as to the validity or enforceability of this provision, or whether a Dispute is arbitrable, shall be determined by the arbitrator; provided, however, that the arbitrator shall not be permitted to vary the express provisions of these Special Rules or the Reservations of Rights in subsection (c) below.

(vii) The arbitrator shall have the power to award legal fees and costs pursuant to the terms of this Mortgage.

(viii) The arbitration will take place on an individual basis without reference to, resort to, or consideration of any form of class or class action.

(c) Reservations of Rights. Nothing in this Mortgage shall be deemed to (i) limit the applicability of any otherwise applicable statutes of limitation and any waivers contained in this Mortgage, or (ii) apply to or limit the right of Lender (A) to exercise self help remedies such as (but not limited to) setoff, or (B) to foreclose judicially or nonjudicially against any real or personal property collateral, or to exercise judicial or nonjudicial power of sale rights, (C) to obtain from a court provisional or ancillary remedies such as (but not limited to) injunctive relief, writ of possession, prejudgment attachment, or the appointment of a receiver, or (D) to pursue rights against a party to this Mortgage in a third-party proceeding in any action brought against Lender in a state, federal or international court, tribunal or hearing body (including actions in specialty courts, such as Bankruptcy and patent courts). Lender may exercise the rights set forth in clauses (A) through (D), inclusive, before, during or after the pendency of any arbitration proceeding brought pursuant to this Mortgage. Neither the exercise of self help remedies nor the institution or maintenance of an action for foreclosure or provisional or ancillary remedies shall constitute a waiver of the right of any party, including the claimant in any

20071026000496310 14/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

such action, to arbitrate the merits of the Dispute occasioning resort to such remedies. No provision in the Loan Documents regarding submission to jurisdiction and/or venue in any court is intended or shall be construed to be in derogation of the provisions in any Loan Document for arbitration of any Dispute.

(d) Conflicting Provisions for Dispute Resolution. If there is any conflict between the terms, conditions and provisions of this Section and those of any other provision or agreement for arbitration or dispute resolution, the terms, conditions and provisions of this Section shall prevail as to any Dispute arising out of or relating to (i) this Mortgage, (ii) any other Loan Document, (iii) any related agreements or instruments, or (iv) the transaction contemplated herein or therein (including any claim based on or arising from an alleged personal injury or business tort). In any other situation, if the resolution of a given Dispute is specifically governed by another provision or agreement for arbitration or dispute resolution, the other provision or agreement shall prevail with respect to said Dispute.

(e) Jury Trial Waiver in Arbitration. By agreeing to this Section, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Dispute.

26. **Governing Law and Jurisdiction.** This Mortgage and the other Loan Documents and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of Florida, except to the limited extent that the substantive law of the State of Alabama controls with respect to Mortgagee's foreclosure rights and remedies relating to the Mortgaged Property located in the State of Alabama. Mortgagor and all of its general partners hereby submits to the jurisdiction of the state and federal courts located in Florida and agree that Mortgagee may, at its option, enforce its rights under the Loan Documents in such Florida courts.

27. **WAIVER OF JURY TRIAL. MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY, WITH RESPECT TO ANY LITIGATION OR LEGAL PROCEEDINGS BASED ON, OR ARISING OUT OF THE NOTE (INCLUDING ANY PRIOR NOTES, RENEWALS, ADDITIONAL ADVANCES OR AMENDMENTS THERETO), MORTGAGE, AMENDED AND RESTATED MASTER LOAN AGREEMENT (TOGETHER WITH ANY PRIOR AGREEMENTS OR ANY AMENDMENTS THERETO), OR OTHER LOAN DOCUMENTS, AS AMENDED, MODIFIED, RESTATED, RENEWED AND EXTENDED FROM TIME TO TIME, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALINGS, VERBAL OR WRITTEN STATEMENTS, OR ACTIONS OR OMISSIONS OF ANY PARTY WHICH IN ANY WAY RELATES TO THE LOAN. THE PARTIES HERETO HAVE SPECIFICALLY DISCUSSED AND NEGOTIATED THIS WAIVER AND UNDERSTAND THE LEGAL CONSEQUENCES OF THIS PARAGRAPH.**

20071026000496310 15/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

IN WITNESS WHEREOF, the undersigned has executed this instrument the date and year first above written.

ADAMS HOMES, LLC, an Alabama limited liability company

By:_____
Wayne L. Adams
Manager and Member

By: **ADAMS HOMES OF NORTHWEST FLORIDA, INC.**, a Florida corporation, as Member

By:_____
Wayne L. Adams, President

STATE OF Florida
COUNTY OF Santa Rosa

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Wayne L. Adams, whose name as Manager and Member of Adams Homes, 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 Mortgage, he/she, 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 the 3 day of July, 2007.

AFFIX SEAL

SUSAN A. SLOAN
Notary Public - State of Florida
My Comm. Expires Aug 12, 2008
Commission # DD 346478

Notary Public

STATE OF Florida
COUNTY OF Santa Rosa

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Wayne L. Adams, whose name as President of Adams Homes of Northwest Florida, Inc., a Florida corporation, as Member of Adams Homes, 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 Mortgage, he/she, 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 the 3 day of July, 2007.

Notary Public

AFFIX SEAL

SUSAN A. SLOAN
Notary Public - State of Florida
My Comm. Expires Aug 12, 2008
Commission # DD 346478

20071026000496310 16/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT

Exhibit "A

Lots 30, 44, 45 and 46, Golden Meadows Subdivision, according to the plat thereof, recorded in Map Book 38, Page 80, as recorded in the Office of the Judge of Probate of Shelby County, Alabama.

20071026000496310 17/17 $60.00
Shelby Cnty Judge of Probate,AL
10/26/2007 03:34:02PM FILED/CERT