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20090415000139050 1/4 \$21.00  
Shelby Cnty Judge of Probate, AL  
04/15/2009 01:58:38PM FILED/CERT

Prepared by and return to:  
John W. Monroe, Jr. of  
Emmanuel, Sheppard & Condon  
30 South Spring Street  
Pensacola, FL 32502  
A0458- 120669 rfk

Note to Clerk: All Mortgage Recording Tax on the amount of the revolving principal indebtedness secured by this mortgage has been previously paid pursuant to Order of Alabama Department of Revenue upon the recording of the modification described herein in Madison County, AL.

## **MORTGAGE SPREADER AGREEMENT**

### **(Under Revolving Credit Facility)**

THIS AGREEMENT, is made this 2nd day of April, 2009, by and between **ADAMS HOMES OF NORTHWEST FLORIDA, INC.**, a Florida corporation, **ADAMS HOMES, LLC**, an Alabama limited liability company, jointly and severally (collectively "Borrower"), whose address is 1101 Gulf Breeze Parkway, Suite 230, Gulf Breeze, Florida 32561, and **FIRST HORIZON HOME LOANS**, a division of First Tennessee Bank, National Association f/k/a **FIRST HORIZON HOME LOAN CORPORATION** ("Bank"), whose address is 200 East Robinson Street, Suite 400, Orlando, Florida 32801.

### RECITALS

A. Borrower has previously executed and delivered its Note (revolving credit facility) dated September 23, 2004 in the amount of \$35,000,000.00, which was renewed by Renewal Real Estate Note in the same amount dated March 9, 2006, and was increased by Increased Renewal Real Estate Note dated October 30, 2007, in the amount of \$60,000,000.00 (all collectively together with all subsequent renewals and modifications constitute the "Note").

B. Borrower has secured the Note with a certain Mortgage and Security Agreement (Revolving Credit Facility), recorded in Instrument No. 973783, of the Office of the Judge of Probate of Baldwin County, in Real Property Book 5863, Page 1601, of the Office of Judge of Probate of Mobile County, in Document No. 20050817000548300, of the Office of the Judge of Probate of Madison County, in Document No. 20060412000171220, of the Office of the Judge of Probate of Shelby County, in Records Book RLPY 2005-46982, of the Office of the Judge of Probate of Limestone County, Mortgage Book 2008, at Page 15670, of the Records in the Office of the Judge of Probate, St. Clair County, Alabama, as modified by Mortgage Modification Agreement and Notice of Future Advance dated October 30, 2007, and recorded in Instrument No. 1113277, of the Office of the Judge of Probate of Baldwin County, in Real Property Book 6378, Page 1595, of the Office of Judge of Probate of Mobile County, in Document No. 20080423000263610, of the Office of the Judge of Probate of Madison County, in Document No. 20080512000191940, of the Office of the Judge of Probate of Shelby County, in Records Book RLPY 2008-29921, of the Office of the Judge of Probate of Limestone County, Mortgage Book \_\_\_\_\_, at Page \_\_\_\_\_, of the Records in the Office of the Judge of Probate, St. Clair County, Alabama. (the "Mortgage" or the "Security Documents") The Security Documents encumber property more particularly described in the Security Documents (the "Mortgaged Property").

C. At the time of the execution and delivery of the Security Documents, Borrower and Bank entered into a certain Environmental Certificate and Indemnification Agreement, and a certain Loan Agreement (Revolving Credit Facility) last amended on October 30, 2007, (the "Loan Agreement"), setting forth the terms upon which Bank has agreed to make advances under the Note from time to time for acquisition and construction of improvements on real property to be encumbered by the Mortgage. The Security Documents, Loan Agreement, Environmental Certificate, and Indemnification Agreement, and all other documents executed by Borrower in connection with the loan evidenced by the Note, including any subsequent modifications thereto, are referred to herein as the "Loan Documents."

D. Borrower has requested Lender make advances pursuant to the Note for parcels of property that are not presently encumbered by the Loan Documents, and Lender has agreed to make such advances to Borrower provided that the Loan Documents are amended to include and encumber such property.



NOW, THEREFORE, in consideration of the mutual covenants contained herein and in the Note, Mortgage and Loan Agreement, of the loan funds being advanced from time to time by Bank to Borrower, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- i) The foregoing recitals are acknowledged as true and correct and are incorporated herein.
  - ii) In order to further secure the indebtedness arising from, secured by, or evidenced by Loan Documents, the Loan Documents are hereby modified and amended to include within the Mortgaged Property (1), as it relates to the Mortgage, all of that certain real property described in Exhibit "A" attached and incorporated by reference, and (2) as it relates to the Financing Statement, the interests, rights, and other property of the nature described in the Financing Statement that are located on or otherwise relate to the real property described in Exhibit "A" (collectively called the "Additional Mortgaged Property"). The Additional Mortgaged Property shall be encumbered by the Mortgage, Assignment, Financing Statement, Easement, and other Loan Documents and subject to all of the covenants, terms, and provisions thereof, Borrower hereby giving, bargaining, selling, warranting, alienating, remising, releasing, conveying, assigning, transferring, granting an easement over, mortgaging, hypothecating, depositing, pledging, setting over, and confirming unto Lender all of Borrower's estate, right, title and interest in, to and under the Additional Mortgaged Property, all to the same end and with the same force and effect as if expressly included in the Loan Documents at the time such were executed and delivered. As to the Additional Mortgaged Property, Borrower makes all representations and warranties in the Loan Documents originally applicable to the Mortgaged Property or otherwise required as a condition or inducement to the loan from Bank, and agrees that the Additional Mortgaged Property shall be subject to all covenants and provisions of the Loan Documents as if originally subject thereto.
  - iii) Borrower hereby affirms all of its obligations set forth in the Note, Mortgage, and the other Loan Documents and agrees to perform each and every covenant, agreement and obligation therein and herein, and further agrees to be bound by each and all of the terms and provisions therefor. The Mortgaged Property shall in all respects be subject to the lien, charge, and encumbrances of the Mortgage and nothing herein contained or done shall affect the lien, charge, or encumbrance of the Mortgage, as modified hereby, or its priority over any other liens, charges, encumbrances, or conveyances.
  - iv) Borrower warrants that it has full power and authority to execute this Agreement, that there are no other liens or claims against the Mortgaged Property other than the first lien of the Mortgage, that the Mortgage is binding upon the Borrower, its successors and assigns, that Bank has heretofore fully performed its obligations under the Note, Mortgage and Loan Documents, and that the Borrower has no known claims or offsets against the Bank or against the indebtedness under the Note, the obligations under the Mortgage, or the obligations under any of the Loan Documents. Borrower represents and warrants that, to the best of its knowledge, (i) it has no defenses, setoffs, counterclaims, actions or equities in favor of Borrower to or against enforcement of the Note, Mortgage or other Loan Documents; and (ii) no agreement, oral or otherwise, has been made by any of Bank's employees, agents, officers or directors to further extend or modify the Note, the Mortgage, or the Loan Documents.
6. It is the intent of the parties hereto that this instrument shall not constitute a novation and shall in no way adversely affect or impair the lien priority of the Mortgage, and that all sums advanced in connection herewith shall have the same priority as the sums originally under the Mortgage. In the event this instrument, or any part hereof, or any of the instruments executed in connection herewith shall be construed or shall operate to affect the lien priority of the Mortgage, then, to the extent such instrument creates a charge upon the real property encumbered by the Mortgage in excess of that contemplated and permitted by the Mortgage, and to the extent third persons acquiring an interest in such property between the time of the recording of the Mortgage and the recording hereof are prejudiced thereby, if any, this instrument shall be void and of no force or effect; provided, however, that notwithstanding the foregoing, the parties hereto, as between themselves, shall be bound by all the terms and conditions hereof until all indebtedness owing from Borrower to Bank shall have been paid.



IN WITNESS WHEREOF, the parties have executed this agreement the date first written above.

Signed, sealed, and delivered  
in the presence of:

**ADAMS HOMES OF NORTHWEST FLORIDA,  
INC., a Florida Corporation**

By: [Signature]

Glenn H. Schneider, Assistant Controller

[Signature]  
Print Name: DIANE S. JERNIGAN

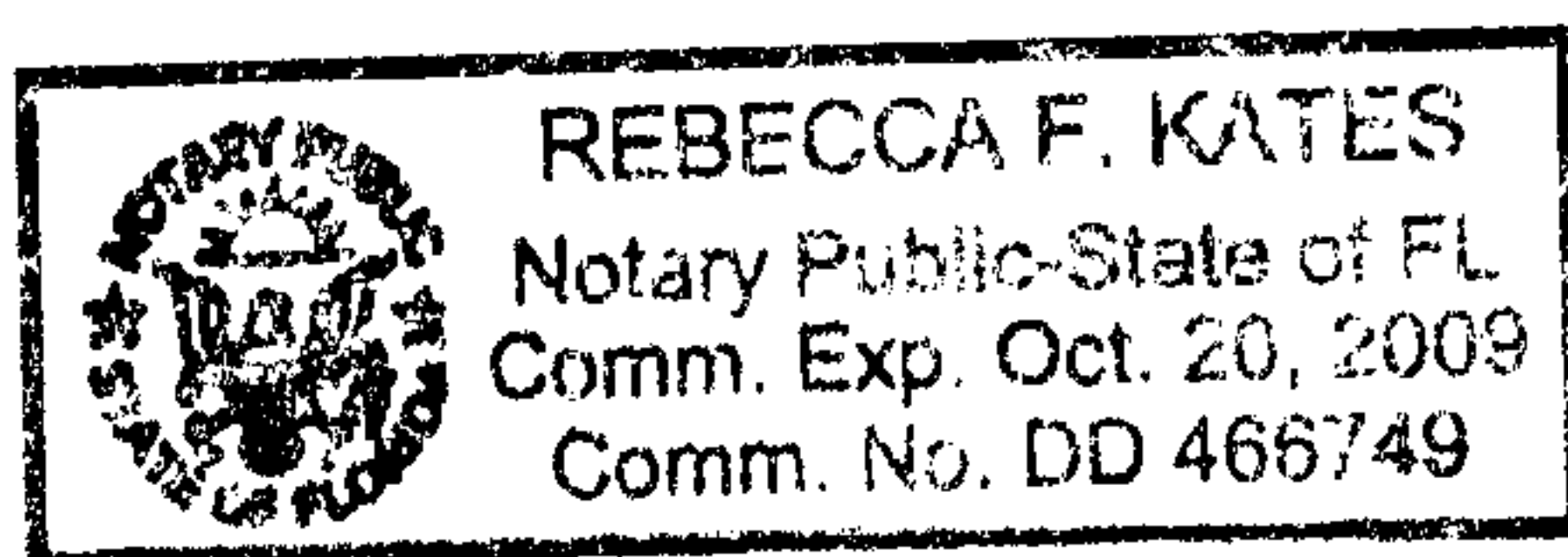
[Signature]  
Print Name: REBECCA F. KATES

STATE OF FLORIDA  
COUNTY OF ESCAMBIA

SWORN TO AND SUBSCRIBED before me on 2nd day of April, 2009 by Glenn H. Schneider, Assistant Controller of ADAMS HOMES OF NORTHWEST FLORIDA, INC., a Florida corporation, on behalf of the corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

Signature: [Signature]  
State of Florida at Large



**ADAMS HOMES, LLC**

By ADAMS HOMES OF NORTHWEST FLORIDA, INC, a Florida corporation, as its Member

By: [Signature]

Print name: Glenn H. Schneider, Assistant Controller

[Signature]  
Print Name: DIANE S. JERNIGAN

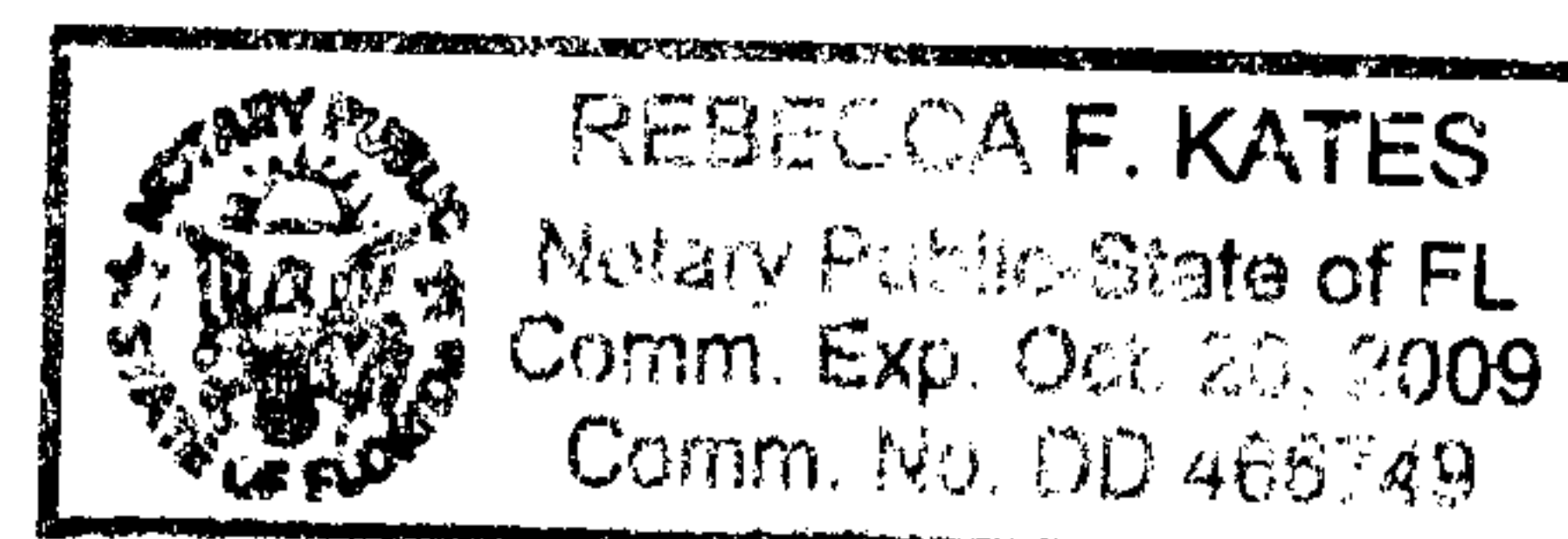
[Signature]  
Print Name: REBECCA F. KATES

STATE OF FLORIDA  
COUNTY OF ESCAMBIA

SWORN TO AND SUBSCRIBED before me on 2nd, day of April, 2009 by Glenn H. Schneider, Assistant Controller of Adams Homes of Northwest Florida, Inc., a Florida corporation, as Member of ADAMS HOMES LLC., an Alabama limited liability company, on behalf of the corporation and limited liability company. He is personally known to me or has produced \_\_\_\_\_ as identification.

NOTARY PUBLIC:

Signature: [Signature]  
State of Florida at Large





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**EXHIBIT "A" TO  
MORTGAGE SPREADER AGREEMENT**

Borrower/Mortgagor/Debtor: **ADAMS HOMES OF NORTHWEST FLORIDA, INC.,  
and  
ADAMS HOMES, LLC**

Bank/Mortgagee/Secured Party: **FIRST HORIZON HOME LOANS**

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Additional Mortgaged Property

Lots 351, 352, 353 and 354, Silver Creek Sector III, Phase II, according to the plat thereof, recorded in Map Book 36, Page 104, as recorded in the Office of the Judge of Probate of Shelby County, Alabama.