

This instrument prepared by  
and after recording return to:

Ray D. Gibbons, Esq.  
Gibbons Graham LLC  
100 Corporate Parkway, Suite 125  
Birmingham, Alabama 35242

**AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT**

**THIS AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT** (this "Amendment") is made and entered into as of December 1, 2011, by and between **THORNTON NEW HOME SALES, INC.**, an Alabama corporation, whose address is 3570 Grandview Parkway, Suite 100, Birmingham, Alabama 35243, Attention: Mr. William L. Thornton III (the "Mortgagor"), and **SERVISFIRST BANK**, an Alabama banking corporation, whose address is 850 Shades Creek Parkway, Birmingham, Alabama 35209, Attention: Mr. Ron Morrison (the "Bank"). Capitalized terms used herein and not defined shall have the meanings ascribed thereto in that certain Credit Agreement dated as of October 5, 2010 among Mortgagor, Thornton Construction Company, Inc. (the "Borrower") and Bank (as amended from time to time, the "Credit Agreement").

**WHEREAS**, Mortgagor executed and delivered in favor of Bank that certain Mortgage and Security Agreement, dated as of October 5, 2010, and recorded on October 27, 2010 in the office of the Judge of Probate of Shelby County, Alabama as Instrument No. 20101027000359820, and as re-recorded on February 28, 2011 in the office of the Judge of Probate of Shelby County, Alabama as Instrument No. 20110228000067340 (as amended from time to time, the "Mortgage"); and

**WHEREAS**, Mortgagor and Bank desire to amend the Mortgage in order to (i) increase the principal amount secured thereby from \$1,200,000.00 to \$1,279,717.88 (viz., an increase of \$79,717.88), and (ii) amend and restate the legal description of the Land, all as hereinafter provided.

**NOW, THEREFORE**, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Mortgagor and Bank hereby agree that the Mortgage is amended as follows:

1. The Mortgage is hereby amended by deleting the first "WHEREAS" clause thereof, and by substituting the following new first WHEREAS clause in lieu thereof:

**WHEREAS**, pursuant to the provisions of the Credit Agreement, Bank extended to Borrower the A&D Facility in the maximum principal amount of One Million Two Hundred Seventy-Nine Thousand Seven Hundred Seventeen and 88/100 Dollars (\$1,279,717.88), such indebtedness being represented by the A&D Note; and

2. The Mortgage is hereby amended by deleting Exhibit A thereto in its entirety, and by substituting in lieu thereof the Exhibit A attached to this Amendment.

3. To secure the Obligations, Mortgagor does hereby convey, mortgage and warrant, grant, bargain, sell, assign, transfer, pledge and set over, re-convey, re-mortgage and re-warrant, re-grant, re-bargain, re-sell, re-assign, re-transfer, re-pledge and re-set over to Bank, its successors and assigns, a Lien and security interest on, upon and in the Land and the other Mortgaged Property (both as defined in the Mortgage).

4. The maximum principal indebtedness secured by the Mortgage is hereby increased from \$1,200,000.00 to \$1,279,717.88 (viz., an increase of \$79,717.88).

5. Except as hereinafter expressly amended, the terms of the Mortgage are hereby ratified and affirmed.

6. In the event of any conflict between the provisions of the Mortgage, as hereby amended, and the provisions of the Credit Agreement, the provisions most favorable to Bank shall control.

\* \* \* \* \*

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

**MORTGAGOR:**

THORNTON NEW HOME SALES, INC.,  
an Alabama corporation

By: [Signature]  
William L. Thornton, III,  
its Chief Executive Officer

**BANK:**

SERVISFIRST BANK,  
an Alabama banking corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF ALABAMA  
COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William L. Thornton III, whose name as Chief Executive Officer of Thornton New Home Sales, Inc., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation.

Given under my hand and official seal, this the 19<sup>th</sup> day of January, 2012.

[Signature] [SEAL]  
Notary Public  
My Commission Expires: 11/05/2014



IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

**MORTGAGOR:**

THORNTON NEW HOME SALES, INC.,  
an Alabama corporation

By: [Signature]  
William L. Thornton, III,  
its Chief Executive Officer

**BANK:**

SERVISFIRST BANK,  
an Alabama banking corporation

By: [Signature]  
Its: Vice President

STATE OF ALABAMA  
COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William L. Thornton III, whose name as Chief Executive Officer of Thornton New Home Sales, Inc., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation.

Given under my hand and official seal, this the 19<sup>th</sup> day of January, 2012.

[Signature] [SEAL]  
Notary Public  
My Commission Expires: 11/05/2014



20120224000066480 5/6 \$147.70  
Shelby Cnty Judge of Probate, AL  
02/24/2012 01:00:50 PM FILED/CERT

STATE OF ALABAMA  
COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Clark Zinsmeister, whose name as Vice President of ServisFirst Bank, an Alabama banking corporation, 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/she, as such officer and with full authority, executed the same voluntarily for and as the act of said Alabama banking corporation.

Given under my hand and official seal, this the 19<sup>th</sup> day of January, 2012.

Scata / Hee

[SEAL]

Notary Public

My Commission Expires:

6/24/12

20120224000066480 6/6 \$147.70  
Shelby Cnty Judge of Probate, AL  
02/24/2012 01:00:50 PM FILED/CERT

EXHIBIT A

DESCRIPTION OF LAND

Lots 13, 14, and 15, according to the Amended Plat of the final Record Plat of Heatherwood, 5<sup>th</sup> Sector, as recorded in Map Book 41, page 86, in the Office of the Judge of Probate of Shelby County, Alabama, which also amended Plat recorded at Map Book 40, Page 128, in the Office of the Judge of Probate of Shelby County, Alabama.