





06-217  
BRIDGFORTH & BUNTIN  
P. O. BOX 241  
SOUTHAVEN, MS 38671  
(662) 393-4450

INDEXING INSTRUCTIONS:

DeSoto County, Mississippi

3/03/06 10:51:42  
BK 2,422 PG 42  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

PREPARED BY:  
Kirkland, Rothman-Branning & Associates  
6489 Quail Hollow, Ste. 102  
Memphis, Tennessee 38120  
901-758-5588

## BUILDER CONSTRUCTION DEED OF TRUST, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

THIS INSTRUMENT SECURES OBLIGATORY ADVANCES AND IS FOR COMMERCIAL PURPOSES.

**THIS DEED OF TRUST** (herein "Instrument") is made this 27th day of February, 2006, among the Grantor(s), Reeves-Williams, LLC, a Delaware limited liability company, whose address is 8727 Northwest Drive, Southaven, MS. 38671 (herein "Borrower"), FMLS, Inc., TRUSTEE, whose residence address is Davidson County, Tennessee (herein "Trustee"), and the Beneficiary, AMSOUTH BANK, whose address is 6000 Poplar Avenue, Memphis, Tennessee 38119 (herein "Lender").

Borrower, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys, and assigns to Trustee, in trust, with power of sale, the following described property located in DeSoto County, Mississippi, described as follows:

See Attached Exhibit "A"

Together with all buildings, improvements and tenements now or hereafter erected on the property, and all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used or intended to be used in connection with the property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants, and all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the real property covered by this Instrument; and all of the foregoing, together with said property, are herein referred to as the "Property."

**IN TRUST, TO SECURE** to Lender the following: (a) the repayment of all indebtedness now or hereafter evidenced by the Promissory Note of even date executed by Borrower to Lender in the principal sum of **NINE HUNDRED FIFTY THOUSAND AND NO/100 (\$950,000.00)** DOLLARS, with interest thereon and payments as provided therein, with the balance of the indebtedness due and payable on February 27, 2008 together with all renewals, modifications, and extensions thereof (the "Note"); (b) the payment of all other sums with interest thereon, as set forth in the Note, advanced in accordance herewith to protect the security of this Deed of Trust; (c) the performance of the covenants and agreements of Borrower contained herein and in the Construction Loan Agreement of even date herewith executed between Lender and Borrower (the "Loan Agreement"); and (d) the payment of any and all indebtedness, whether direct or indirect, now or hereafter owing to Lender by Borrower regardless of the type, class, or purpose of any such other indebtedness, and however such indebtedness is evidenced, including, without limitation, the repayment of any Future Advances made by Lender, together with interest thereon. All of the above shall be hereinafter referred to collectively as the "Indebtedness".

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant, convey and assign the Property, that the Property is unencumbered, and that the Borrower will warrant and defend generally the title to the Property against all claims and demands, subject only to those matters listed on the attached Exhibit A.

### BORROWER AND LENDER COVENANT AND AGREE AS FOLLOWS:

#### SECTION 1. PAYMENT OF PRINCIPAL AND INTEREST.

Borrower shall promptly, pay when due, all principal and interest, due on the indebtedness evidenced by the Note, including any prepayment and late charges provided in the Note, and the principal and interest due on any other obligations secured by this Deed of Trust.

#### SECTION 2. TAXES, INSURANCE, AND OTHER CHARGES.

Borrower shall pay all taxes, assessments, insurance premiums, ground rents and other charges, fines and impositions attributable to the Property by making payments, when due, directly to the persons entitled to collect such payments. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph and receipts evidencing the timely payment of all such amounts.

If requested by Lender at any time during the term of the Indebtedness secured hereby, Borrower shall pay to Lender, on a monthly basis in addition to other payments due under the Note and until the Note is paid in full, a sum (hereinafter referred to as "Funds") equal to one-twelfth of any yearly taxes, assessments, ground rents and other charges attributable to the Property, plus one-twelfth (1/12) of the yearly premiums for all insurance policies required hereunder. Lender shall reasonably calculate, in its sole discretion, the amount of Funds required pursuant to this paragraph.

So long as there is no default hereunder, Lender shall apply the Funds to pay taxes, assessments, charges, insurance premiums and ground rents. Lender shall not be required to pay any interest or earnings on the Funds; and the Funds are hereby pledged as additional security for the Indebtedness. This instrument shall be considered a security agreement granting Lender a security interest in the Funds, and if there is a default under this Deed of Trust Lender may apply the funds to reduce the Indebtedness.

If the Funds held by Lender exceed the amount required to pay taxes, assessments, insurance premiums, ground rents and other charges as they fall due, and if there is no default under this Deed of Trust and the Note, the excess shall be promptly refunded or credited against the sums secured hereby, at the Borrower's option. If the amount of the Funds held by Lender is not sufficient to pay taxes, assessments, insurance premiums, ground rents, and other charges as they fall due, Borrower shall pay to Lender the amount necessary to make up the deficiency within ten (10) days from the date Lender delivers notice requesting payment thereof.

Upon receipt of payment in full of the Indebtedness, Lender shall promptly refund any Funds held by Lender. If any part or parts of the Property, or any interest therein, is transferred or sold, or is acquired by Lender, Lender shall apply any Funds in its possession as a credit against the Indebtedness prior to the sale or acquisition of the Property.

#### SECTION 3. ASSIGNMENT OF RENTS; RIGHTS TO POSSESSION.

As additional security for the repayment of the Indebtedness, Borrower hereby assigns to Lender all rents, income or profits derived from the

BTD

7

Property.

In the event of default hereunder, as set forth herein, Lender, in person, by agent or by judicially appointed receiver, shall be entitled to take possession of and manage the Property and to collect all rents, income and other profits derived from the Property, including amounts past due. Borrower agrees to relinquish peaceful possession to Lender. All rents, income and profits collected by the Lender or receiver shall be applied first to payment of the cost of management of the Property and collection of the rents, income and profit, including, but not limited to, the cost of receiver's fees, premiums or receiver's bonds, and reasonable attorney's fees. The rents, income, and profits shall then be applied to the Indebtedness secured by this Deed of Trust. Lender shall be liable to account only for the net rents actually received.

In connection with this Assignment of Rents, Borrower agrees to comply with all terms imposed upon it as lessor under any lease covering any part of the Property. Should Borrower default under any such lease, Lender may take whatever action it deems desirable to prevent or cure the default by Borrower. Lender shall have the right to enter upon the Property as often as it desires in order to prevent or cure any such default. In attempting to prevent or cure any such default, Lender may spend such sums of money as it deems necessary and Borrower hereby agrees to pay Lender immediately upon demand all sums so expended by Lender, together with interest from the date of payment by Lender at the highest lawful rate then in effect under applicable law. Such sums, and the interest thereon, shall become additional Indebtedness secured by this Deed of Trust.

#### SECTION 4. APPLICATION OF PAYMENTS.

Payments received by Lender under the Note and this Deed of Trust shall be applied to principal and interest payable on the Note and to all other sums secured by this Deed of Trust in such order and manner as are determined by Lender in its sole discretion, subject only to the provisions of this Deed of Trust.

#### SECTION 5. LIENS.

Borrower shall promptly discharge any lien on the Property which has priority, or shall in the future attain priority, over this Deed of Trust; or, in the alternative, Borrower shall pay or perform the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest or defend against enforcement of such lien by legal proceedings which prevent enforcement of the lien and which are initiated with the written consent of Lender.

#### SECTION 6. INSURANCE.

Borrower shall keep the improvements now existing or hereafter located on the Property insured for their full insurable value against loss by fire and such other hazards as may be required by Lender, including, but not by way of limitation, extended coverage, vandalism, malicious mischief, worker's compensation, builder's risk, public liability, federal flood insurance if and as required under the federal Flood Disaster Protection Act. All insurance policies required pursuant to the preceding sentence shall include a standard provision, satisfactory to Lender, naming Lender as a mortgagee loss payee.

Without limiting the foregoing, Borrower shall keep in force and shall comply with, until the Indebtedness is satisfied in full (unless otherwise herein stated), the following:

(a) Non-reporting builder's risk insurance with standard non-contributing mortgagee clauses and standard waiver of subrogation clauses, such insurance to be in such amounts and form and by such companies as shall be approved by Lender, the originals of which policies (together with appropriate endorsements thereto, evidence of payment of premiums thereon and written agreement by the insurer or insurers therein to give Lender thirty (30) days' prior written notice of intention to cancel or materially amend) shall be promptly delivered to Lender; said insurance coverage to be kept in full force and effect at all times until the completion of construction of the improvements upon the Property.

In the event that any portion of the improvements to be constructed on the Property is completed and/or possession of said portion is given to Borrower, or tenants, guests, invitees or customers of Borrower take possession of said completed portion, the builder's risk insurance policy shall be endorsed to provide specifically for the coverage of any such completed portion of the improvements under the terms and conditions of the policy, so as to preclude the assertion of any and all defenses predicated on the possession and use of the completed portion of the improvements.

(b) Insurance against loss or damage by such hazards as are presently included in so-called "all-risk" coverage and such other hazards as, under good insurance practices, from time to time are insured against for properties of similar character and location, with standard non-contributing mortgagee clauses and standard waiver of subrogation clauses, such insurance to be in such amounts and form and by such companies as shall be approved by Lender, the originals of which policies (together with appropriate endorsements thereto, evidence of payment of premiums thereon and written agreement by the insurer or insurers therein to give Lender thirty (30) days' prior written notice of intention to cancel or materially amend) shall be promptly delivered to Lender upon completion of construction of improvements and before any portion of the premises is occupied by Borrower or any tenant of Borrower, with such insurance to be kept in full force and effect at all time thereafter until the payment in full of the Indebtedness.

(c) Borrower shall furnish, or cause to be furnished, a certificate from an insurance company indicating that Borrower and Borrower's Contractor, if any, are covered by (i) comprehensive public liability insurance on an "occurrence basis" against claims for "personal injury", including without limitation bodily injury, death or property damage occurring on, in or about the Property and the adjoining street, sidewalks and passageways, and (ii) worker's compensation insurance (including employer's liability insurance, if requested by Lender), all to the satisfaction of Lender, and containing an agreement to notify Lender in writing at least thirty (30) days prior to any cancellation or material alteration of such insurance.

(d) If the Property is located in an area designated by an applicable governmental or other authority as having special flood hazards, a flood insurance policy in form, substance and amount satisfactory to Lender.

(e) If required by Lender, rent or business interruption insurance against loss of income arising out of damage or destruction by such hazards as are presently included in so called "all risk" coverage and such other hazards as, under good insurance practices, from time to time are insured against for properties of similar character and location, with standard non-contributing mortgagee clauses and standard waiver of subrogation clauses, in form and substance satisfactory to Lender, and in an amount not less than one hundred percent (100%) of one (1) year's gross rental income from the Property after completion of improvements thereon. The original of said policy shall be delivered to Lender immediately upon completion of construction and before any portion of the Property is occupied by any tenant or by the owner.

(f) Such other insurance on the Property, or any replacements or substitutions therefor and in such amounts as from time to time may be reasonably required by Lender against other insurance casualties that at the time are commonly insured against in the case of premises similarly situated, due regard being given to the height and type of the improvements and the construction, location, use and occupancy thereof and of any replacements or substitutions therefor.

All insurance shall be carried with companies approved by Lender. The duplicate original policies and renewals thereof shall be held by Lender, shall provide that loss be payable to Lender, as Lender's interest may appear therein, and shall otherwise be in form acceptable to Lender. In the event of loss, Borrower shall give immediate notice by mail to Lender. In such event, Lender may make proof of loss if not made promptly by Borrower, but Lender shall not be required to do so. Each insurance company concerned is hereby authorized and directed to make payment on such loss directly to Lender instead of to Borrower and Lender jointly. The insurance proceeds, or any part thereof, may be applied by Lender, at its option, either to the reduction of the Indebtedness or to the restoration or repair of the Property. If the Property is conveyed to Lender or if title to the Property is otherwise transferred in extinguishment of the Indebtedness, all right, title and interest of Borrower in and to any insurance policies then in force shall be assigned to the new owner of the Property.

In no event shall any application of insurance proceeds to payment of sums due under this instrument operate to reduce the obligation of the Borrower to make any periodic payments due and payable under this Deed of Trust and the Note unless such application constitutes final payment under the Note.

#### **SECTION 7. CONDEMNATION.**

The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or any part of the Property, or in connection with any conveyance in lieu of condemnation, are hereby assigned to Lender and shall be paid directly to Lender. Lender may apply or release the funds so received in the same manner and with the same effect as provided in Section 6 for the disposition of insurance proceeds. In no event shall any application of such proceeds to payment of sums due under this instrument operate to reduce the obligations of the Borrower to make any periodic payments due and payable under this Deed of Trust and the Note unless such application constitutes final payment under the Note.

#### **SECTION 8. PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.**

Borrower shall keep the Property in good repair, and shall not commit waste or permit impairment or deterioration of the Property. If this Deed of Trust conveys a leasehold estate, Borrower shall comply with the provisions of any lease affecting the leasehold estate. If Borrower fails to do so, Lender shall have the right, but not the obligation, to take such action as it deems desirable to prevent or cure any default under this Section. Any amounts disbursed by Lender pursuant to this Section with interest thereon at the highest lawful rate permitted by applicable law, shall become additional Indebtedness secured by this Deed of Trust. Borrower expressly grants to Lender the right to enter upon the Property immediately and as often as Lender desires in order to prevent or cure any default by Borrower. Borrower shall not surrender its leasehold estate or interest, or modify or terminate any lease affecting such estate or interest without the prior written consent of Lender. If this Deed of Trust conveys a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligation under the declaration or covenants creating or governing the condominium or planned unit development, under the by-laws and regulations of the condominium or planned unit development, and under all other constituent documents. If a condominium or planned unit development rider is executed by Borrower and recorded together with this Deed of Trust, such rider shall be incorporated herein by reference and shall amend and supplement the covenants and agreements of this Deed of Trust as if the rider were a part hereof.

#### **SECTION 9. PROTECTION OF LENDER'S SECURITY.**

If Borrower fails to perform all the covenants and agreements contained in this Deed of Trust, and a default occurs under any of the terms, conditions and provisions of any Loan Agreement referred to hereinabove, or any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain proceedings, insolvency proceedings, building and housing code enforcement proceedings, arrangements or proceedings involving a bankrupt or decedent, or the enforcement of any prior lien against the Property, then Lender at Lender's option may make such appearances, disburse such sums and take such action as Lender deems necessary to protect its interest hereunder, including, without limitation, disbursements for reasonable attorney's fees, repairs to the Property, curing defaults under prior liens and removal of liens. Any amounts disbursed by Lender pursuant to this section shall become additional Indebtedness secured by this Deed of Trust. Such amounts shall be payable upon notice from Lender, and shall bear interest from the date of disbursement at the highest rate permitted by applicable law, or at the rate provided in the Note if no highest rate is prescribed by applicable law. Nothing contained in this paragraph shall require Lender to incur any expense or to take any action hereunder.

#### **SECTION 10. INSPECTION.**

Lender may enter upon and inspect the Property, at any time Lender s deems necessary or desirable.

#### **SECTION 11. FORBEARANCE BY LENDER NOT A WAIVER.**

Forbearance by Lender in exercising any right or remedy hereunder, or any related right or remedy otherwise afforded by law, shall not be a waiver of, or preclude the subsequent exercise of any such right or remedy. The receipt by Lender of any past due installments under the Note or any other late payments of the Indebtedness shall not deprive Lender of the right to accelerate the maturity of the Indebtedness or of any other right of enforcement existing pursuant to the terms of this instrument. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the Indebtedness because of default hereunder.

#### **SECTION 12. TRANSFER OF PROPERTY, LENDER'S CONSENT.**

If all or any part of the Property, or any legal or equitable interest therein, or any ownership interest in Borrower if Borrower is other than a natural person, is voluntarily or involuntarily sold, conveyed in trust, or otherwise transferred, or any additional encumbrance is placed thereon, without Lender's prior written consent, Lender may, at its option, declare the Indebtedness to be immediately due and payable.

#### **SECTION 13. EVENTS OF DEFAULT; ACCELERATION; REMEDIES.**

If Borrower (a) shall pay the Indebtedness, when due, according to its terms, (b) shall pay promptly all taxes, assessments, ground rents, and other charges against the Property when due, (c) shall keep up repairs, (d) shall keep the Property insured as provided herein, (e) shall pay any and all other sums when due, as herein provided, and (f) shall otherwise perform all of the covenants and conditions contained herein, then this trust conveyance shall be of no further force or effect. In such case, Lender shall execute and record a release of this Deed of Trust. Otherwise this trust conveyance shall remain in full force and effect, and, at the option of the lawful owner and holder of the Indebtedness, all remaining unpaid Indebtedness and all installments thereof shall be due and payable at once, without notice, upon any of the following Events of Default:

- (a) Failure to pay any portion of the Indebtedness when due according to its terms at maturity; or
- (b) Failure to pay any installment or other sums under the Indebtedness due prior to maturity; or
- (c) The voluntary or involuntary sale, encumbrance, or other conveyance of Borrower's interest in the Property, or any portion thereof, or of any legal or equitable interest therein, or any ownership interest in Borrower, if Borrower is other than a natural person, without Lender's prior written consent, as required by Section 12 above; or
- (d) Default under any prior or subordinate deed of trust encumbering all or any part of the Property; or
- (e) If Borrower shall fail to keep and perform any other covenant or provision contained herein, in the Loan Agreement, or any other instrument or document now or hereafter evidencing or securing any of the Indebtedness, or if at any time any representation or warranty made by Borrower, in the Loan Agreement or otherwise, in connection with the Indebtedness, shall be materially incorrect, and (except for those Events of Default listed in subsections (f) through (j) of this Section in which case no notice or cure period is required except as is specifically set forth in such subsections) such breach or failure shall continue unremedied for a period of ten (10) days following the earlier of the date Borrower first has knowledge of such breach or failure, or the date Borrower is given written notice by Lender specifying such breach or failure. If such breach or failure cannot be cured by Borrower with reasonable diligence within such ten (10) day period, then such period shall be extended to a total of thirty (30) days, provided that within such (10) day period Borrower shall commence to cure such breach or failure and shall continue to proceed thereafter with reasonable diligence; or

(f) If Borrower, or any guarantor of any of the Indebtedness (i) shall generally not pay or shall be unable to pay such party's debts as such debts become due; or (ii) shall make a general assignment for the benefit of creditors or petition or apply to any tribunal for the appointment of a custodian, receiver or trustee for such party, the Property or a substantial part of such party's assets; or (iii) shall commence any proceeding under bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or (iv) shall have had any petition or application filed or commenced against such party in which an order for relief is entered or an adjudication or appointment is made; or (v) shall indicate, by any act or omission, such party's consent to, approval of or acquiescence in any such petition, application, proceeding, or order for relief or the appointment of a custodian, receiver or trustee for such party, the Property or a substantial part of such party's assets; or (vi) shall suffer any custodianship, receivership or trusteeship to continue undischarged for a period of thirty (30) days or more; or

(g) If in the reasonable judgment of Lender there is a material adverse change in the financial condition of Borrower, or any guarantor of the Indebtedness; or

(h) If any lien or notice of lien for the performance of work or the supplying of materials is filed or served against any of the Property and remains unsatisfied or unbonded for a period of thirty (30) days after the date of filing thereof; or

(i) If Borrower, or any guarantor of the Indebtedness, shall die or be liquidated or dissolved; or

(j) In the event of default in any other indebtedness or obligation now or hereafter owing by Borrower to Lender.

Upon the occurrence of any Event of Default as set forth above, Lender shall have the right to pursue all remedies available to it hereunder, at law or in equity. In addition, in the event of default, Trustee, or the Trustee's successor in trust, is hereby authorized and empowered, upon giving notice of the time and place of sale by publication of such by three (3) publications for successive weeks in any newspaper of general circulation published in the county wherein the Property is located, the first publication of which shall be at least twenty (20) days previous to said sale, to sell the Property, or any part thereof, in such parcels, manner or order as Beneficiary may direct, at the front door of the Courthouse in said county to the highest bidder for cash, at public outcry, free from the equity of redemption, the statutory right of redemption, exemptions of homestead, rights by virtue of marriage, and all other rights and exemptions of every kind, all of which are expressly waived. The Trustee or the Trustee's successor in trust is further authorized and empowered to execute and deliver a deed to the purchaser at such sale. Lender may bid at any such sale. The Trustee may adjourn any sale hereunder and may reset such sale at a later time and/or dates by announcement of such at the time and place of the originally advertised sale without further publication. The purchaser at such sale shall be entitled to immediate possession of the Property upon the delivery to purchaser by Trustee of a deed for the Property. Prior to such sale, Trustee may enter and take possession of the Property, in which case Trustee shall be accountable only for net rents actually received by Trustee. In the event of sale hereunder, the proceeds will be applied by Trustee as follows:

**FIRST** -- to pay all costs and charges of executing this trust, including attorney's fees and expenses of any litigation which may arise on account of the execution and enforcement of this trust;

**SECOND** -- to pay the Indebtedness, or any balance thereof then remaining unpaid;

**THIRD** -- the remainder to be paid to such parties as are legally entitled to it.

In the event of a sale of said Property under and by virtue of this trust, Borrower and all persons holding under Borrower shall be and become tenants at will of the purchaser of the Property from and after the execution and delivery of a deed to the purchaser, and shall pay the purchaser the reasonable rental value of the property after the sale. Borrower's tenancy shall be terminated at the option of purchaser upon five (5) days' written notice.

If Borrower unsuccessfully challenges the validity of any such sale carried out pursuant to the terms of this Deed of Trust, Borrower shall pay the reasonable attorney's fees and other legal expenses incurred by Lender and Trustee in defending the validity of the sale.

#### **SECTION 14. PROCEEDS FROM JUDICIAL OR TRUST SALE.**

Without limitation, the lien of this Deed of Trust shall extend to the interest of Borrower in the proceeds from any judicial or trust sale of the Property, including, without limitation, the proceeds from sale by foreclosure of any prior encumbrance to the extent that such proceeds exceed the amount necessary to satisfy such prior encumbrance. The trustee, officer, or other person in charge of any such sale or foreclosure is hereby directed to pay such excess proceeds to the holder of the Indebtedness to the extent necessary to retire the Indebtedness. Such person is hereby authorized, given a power of attorney, and directed to endorse any checks representing proceeds of sale as requested by the holder of the Indebtedness, pursuant to the provisions of this section.

#### **SECTION 15. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.**

This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Instrument or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as a part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in this Instrument as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in this Instrument.

#### **SECTION 16. GRANTOR NOT RELEASED.**

If Lender agrees for the benefit of any debtor to extend the time for payment or to modify the amortization of the Indebtedness, or any part thereof, Lender's action shall not release in any manner the continuing liability of Borrower or any other person on the Indebtedness. Borrower shall have no right to require Lender to initiate proceedings against any obligor on the Indebtedness, to refuse to extend the time for payment by such person, or to refuse otherwise to modify the amortization of any of the Indebtedness.

#### **SECTION 17. REMEDIES CUMULATIVE.**

Every right and remedy provided in this Deed of Trust is distinct from and cumulative to every other right or remedy under this Deed of Trust or afforded by law or equity. Every such right and remedy may be exercised concurrently, independently, or successively.

**SECTION 18. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL.**

The covenants and agreements herein contained and the rights arising hereunder shall inure to the benefit of the respective successors and assigns of Lender and shall be binding upon the respective heirs, successors and assigns of Borrower. All covenants and agreements shall be joint and several.

**SECTION 19. NOTICE.**

Unless otherwise required by applicable law, any notice to Borrower provided for in this Deed of Trust shall be given by mailing such notice by certified mail, return receipt requested, addressed to Borrower at the address given hereinabove for Borrower, or if no such address is given, at the Property's address or at such other address as may be designated by notice to Lender. Any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice. Any notice provided for in this Deed of Trust shall be deemed to have been given when sent in the manner designated herein.

**SECTION 20. SEVERABILITY.**

In the event that any provision or clause of this Deed of Trust or the Note conflicts with any applicable law, the other provisions of this Deed of Trust and the Note shall be given effect as fully as possible without the conflicting provisions, and to this end the provisions of the Deed of Trust and the Note are declared to be severable.

**SECTION 21. PRIORITY OF THIS DEED OF TRUST; FUTURE ADVANCES; EXTENSIONS; MODIFICATIONS AND RENEWALS.**

Any portion of the Indebtedness advanced after the execution of this Deed of Trust shall be defined as a Future Advance. This section shall serve as notice to any subsequent encumbrancer of the Property that Lender claims the priority of the lien of this Deed of Trust for all such Future Advances, as well as for all other obligations secured hereby. This section shall also be notice that Lender reserves the right to modify, extend, consolidate, and renew the Indebtedness, or any portions thereof, and the rate of interest charged thereon, without affecting the priority of this Deed of Trust.

**SECTION 22. WAIVER.**

Borrower expressly agrees that the Trustee, or his successor, may execute the power of sale granted herein and the other powers and rights set forth herein without giving bond or taking oath. The Trustee shall not be liable to Borrower for any acts or omissions to act in the execution of his powers hereunder, except for such acts or omissions as constitute gross negligence or willful misconduct. Except in such instances of gross negligence or willful misconduct, neither the Trustee nor Lender shall be obligated to provide an accounting of any funds received or disbursed in connection with the payment of the Indebtedness or the administration, enforcement, or foreclosure of this trust. Borrower expressly waives all legal, equitable, and statutory rights of redemption, exemption from homestead, all rights arising by virtue of marriage, and all other similar exemptions and rights arising under or created by an applicable statute or judicial decision.

**SECTION 23. NECESSITY OF WRITING.**

The terms of this Deed of Trust may be modified in whole or in part only by a written instrument signed by Borrower and Lender and recorded in the Register's Office of the county in which this Deed of Trust is recorded. Any oral agreement to modify this instrument shall be void and of no force and effect.

**SECTION 24. JOINT AND SEVERAL OBLIGATIONS.**

If Borrower is not the same person(s), or entity, all of the covenants and requirements of this Deed of Trust shall be the joint and several obligations of Borrower, and any reference to "Borrower" shall mean any or all of the individuals or entities constituting Borrower.

**SECTION 25. HEADINGS.**

The titles and headings of the various sections and paragraphs hereof are intended solely for means of reference and are not intended for any purpose whatsoever to modify, explain or place any construction on any provision of this Deed of Trust.

**SECTION 26. GENDER.**

As used herein, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**SECTION 27. SUCCESSOR TRUSTEE.**

Lender, at Lender's option, may from time to time remove any trustee and may appoint a successor trustee by an instrument recorded in the county in which this Deed of Trust is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the trustee herein and by applicable law. The Borrower further agrees that should such sale be made by the Trustee, he need not personally attend and conduct the same but at his option, he may have the sale conducted by an agent or attorney selected by him.

**SECTION 28. LOAN AGREEMENT.**

Borrower agrees to comply with the covenants and conditions of the Loan Agreement evidencing the indebtedness secured hereby, which is hereby incorporated by reference in and made a part of this Instrument. All advances made by Lender pursuant to the Loan Agreement shall be indebtedness of Borrower secured by this Instrument. All sums disbursed by Lender to protect the security of this Instrument shall be treated as disbursements pursuant to the Loan Agreement. All such sums shall bear interest from the date of disbursement at the highest rate allowed by applicable law, provided that if no highest rate is prescribed by applicable law such amounts shall bear interest at the rate or rates at which interest shall be charged upon default as provided in the Note and shall be payable upon notice from Lender to Borrower requesting payment therefor.

From time to time as Lender deems necessary to protect Lender's interest, Borrower shall, upon request of Lender, execute and deliver to Lender, in such form as Lender shall direct, assignments of any and all rights or claims which relate to construction on the Property and which Borrower may have against any party supplying or who has supplied labor, materials or services in connection with construction on the Property. In case of breach by Borrower of the covenants and conditions of the Loan Agreement, Lender, at Lender's option, with or without entry upon the Property, may invoke any of the rights or remedies provided in the Loan Agreement, and may accelerate the sums secured by this Instrument and invoke those remedies provided in this Instrument.

**SECTION 29. HAZARDOUS SUBSTANCES.**

Neither Borrower nor any affiliate or associate of Borrower nor, to the best knowledge of Borrower, any other person has ever caused or permitted any "Hazardous Material" (as hereinafter defined) to be placed, held, located or disposed of on, under or at the Property or any part thereof or any other real property legally or beneficially owned (or any interest or estate in which is owned) by Borrower or any affiliate or associate of Borrower and neither the Property nor any part thereof, nor any other real property legally or beneficially owned (or any interest or estate in which is owned) has ever been used (whether by Borrower and any affiliate or associate of Borrower or, to the best knowledge of Borrower, by any other person) as a dump site or storage site (whether permanent or temporary) for any Hazardous Material. As used herein, the term "Hazardous Material" shall mean any hazardous, toxic or dangerous

waste, substance or material defined as such in, or for purposes of, the Comprehensive Environmental Response, Compensation and Liability Act as such may be amended, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as may be now or at any time hereafter in effect (the "Environmental Laws").

Borrower hereby agrees to indemnify Lender and hold Lender harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever, paid, incurred or suffered by, or asserted against, Lender for, with respect to, or as a result of any of the following:

- (i) The presence on or under or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Property or any part thereof or any other real property legally or beneficially owned (or any interest or estate in which is owned) by Borrower or any affiliate or associate of Borrower of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the Environmental Laws); or
- (ii) Any liens against the Property or any part thereof or any interest or estate in any part thereof, created, permitted or imposed by the Environmental Laws, or any actual or asserted liability or obligations of Borrower or any affiliate or subsidiary of Borrower under the Environmental Laws.

**SECTION 30. PARTIAL RELEASES.**

Provided there is then no Event of Default hereunder, Lender shall issue a partial release of a platted building lot from the security hereunder upon payment of the sum of \$22,620.00 per lot, except that the final lot shall be released only upon payment of all sums secured hereby.

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

**BORROWER:**

[Corporate, LLC or Partnership Signature]

**BORROWER:**

[Individual Signature]

Reeves-Williams, LLC  
(Name of Company)

By: [Signature]  
Robert W. Driskell  
Its: Chief Financial Officer

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

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

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

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

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

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

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

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

\_\_\_\_\_  
(Type Name)

STATE OF MISSISSIPPI )  
COUNTY OF DESOTO )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, Robert W. Driskell, with whom I am personally acquainted, and who acknowledged that he/she/they executed the within instrument for the purposes therein contained, and who further acknowledged that he is the Chief Financial Officer of the maker or a constituent of the maker and is/are authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

WITNESS my hand, at office, this 27 day of February, 2006.



[Signature]  
Notary Public

My Commission Expires: \_\_\_\_\_

## EXHIBIT "A"

A 18.54, more or less, acre tract of land being located in the north half of section 8, township 2 south, range 9 west of the Chickasaw Meridian, Village of Memphis, DeSoto County, Mississippi and being more particularly described as follows:

Commencing at the northwest corner of section 8, township 2 south, range 9 west of the Chickasaw Meridian; thence south  $88^{\circ}50'04''$  east, a distance of 2403.48'; thence south  $89^{\circ}23'01''$  east, a distance of 961.82'; thence south  $42^{\circ}18'53''$  west, a distance of 1,361.35'; thence north  $47^{\circ}41'07''$  west, a distance of 180.00'; thence south  $42^{\circ}18'53''$  west, a distance of 46.78'; thence north  $47^{\circ}41'07''$  west, a distance of 231.97'; thence north  $26^{\circ}42'18''$  west, a distance of 70.41'; thence north  $31^{\circ}24'26''$  west, a distance of 88.17'; thence north  $40^{\circ}00'18''$  west, a distance of 60.00'; thence north  $04^{\circ}34'57''$  west, a distance of 46.50'; thence north  $36^{\circ}58'30''$  west, a distance of 91.50'; thence north  $82^{\circ}48'41''$  west, a distance of 71.87'; thence south  $85^{\circ}43'46''$  west, a distance of 67.55'; thence south  $69^{\circ}50'09''$  west, a distance of 69.81'; thence north  $53^{\circ}46'24''$  east, a distance of 830.48' to the point of beginning.  
Containing 18.54 acres, more or less, and being subject to all codes, covenants, easements, revisions, restrictions, regulations, and rights of way of record.