



2005005704

FOR REGISTRATION REGISTER OF DEEDS
Willie L. Covington
DURHAM COUNTY, NC
2005 FEB 09 12:37:55 PM
BK: 4694 PG: 946-951 FEE: \$26.00

INSTRUMENT # 2005005704

PREPARED BY: +

RETURN TO: ~~Beneficiary~~

DOUGLAS SPELLMAN (LLP) (RWJ)
P.O. Box 10696, Rm. 215, 27605
NORTH CAROLINA
DURHAM COUNTY

AMENDMENT TO DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES (Deed of Trust at Book 4509, Page 311)

THIS AMENDMENT TO DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES (the "Amendment") executed February 7, 2005, by **ROBUCK HOMES, INC.**, a North Carolina corporation, 5800 Faringdon Pl., Raleigh, NC 27609, SOSID: 0126064 (the "Borrower"), delivered to **TRSTE, INC.**, a Virginia corporation, as Trustee (the "Trustee"), in favor of **WACHOVIA BANK, NATIONAL ASSOCIATION**, a national banking association, successor by merger to SouthTrust Bank, 4505 Falls of Neuse Road, Raleigh, NC 27609 (the "Beneficiary").

RECITALS

Pursuant to a Loan Agreement dated December 8, 2003, the Borrower executed a Deed of Trust, Security Agreement and Assignment of Leases recorded at Book 4509, Page 311, Durham County Registry, amended in Book 4612, Page 295, Durham County Registry (the "Deed of Trust") in favor of the Beneficiary. This instrument is intended to amend the Deed of Trust. The terms of the Deed of Trust are incorporated into this instrument. (Except where specifically provided to the contrary in this instrument, the capitalized terms shall have the same meaning as those used in the Deed of Trust.)

To secure the Indebtedness, the Borrower executes and delivers this Amendment.

1. AMENDMENT. On the terms set out in the Deed of Trust, Borrower irrevocably grants, conveys, transfers, and assigns to the Trustee, and its successors and assigns, **IN TRUST, WITH POWER OF SALE**, that real estate situated in Durham County, North Carolina, which is more particularly described in *Exhibit A* attached (the "Exhibit A Land"). The Exhibit A Land is deemed included in the definition of "Land". Also, the terms "Improvements", "Accessories", "Collateral", "Real Estate" and "Mortgaged Property" are deemed to be defined in reference to that Exhibit A Land and in all other Amendment(s) to Deed of Trust executed by Borrower in connection with the Deed of Trust. All Loan Documents are amended accordingly.

TO HAVE AND TO HOLD the Mortgaged Property, together with all privileges and appurtenances belonging thereto, unto Trustee and its heirs, successors and assigns, forever, upon the trusts, terms and conditions and for the uses and purposes set forth in the Deed of Trust.

2. BORROWER REPRESENTATIONS.

2.1. Borrower renews and affirms the representations made in the Loan Documents and makes the following representations with respect to the Exhibit A Land:

(a) All warranties, representations and certifications made (including, but not limited to, those contained in the Borrower's Affidavit) and all information and materials submitted or caused to be submitted to Lender in connection with the Loan were and remain true and correct in all material respects and there have been no material changes in or conditions affecting any of those warranties, representations, certifications, materials or information prior to this date.

(b) The execution and delivery of the Amendment has been duly authorized or approved by the Borrower and, when executed and delivered by the Borrower, will, along with the Loan Documents, constitute the valid and binding obligations of the named obligors and be enforceable in accordance with their respective terms. Neither the payment nor performance of the Loan Documents by Borrower is subject to any offsets, claims or defenses.

(c) Except for those exceptions to title specifically described in *Exhibit B* attached, Borrower is the owner in fee simple of the Land and there are no other liens (including unfiled material liens), claims or encumbrances against the Land whatsoever other than the lien of the Deed of Trust and ad valorem taxes which are not yet delinquent.

(d) Borrower does not know of any actual or threatened taking of the Land or any portion thereof for any public or quasi-public purpose by the exercise of the right of condemnation or eminent domain.

(e) Neither the Land nor any existing or proposed uses of the Land by Borrower violate or will violate any applicable zoning, building, environmental protection, or other ordinances, laws, or regulations of any kind or any covenants or restrictions of record. There are no petitions, actions, or proceedings pending or threatened to revoke, rescind, alter, or declare invalid any laws, ordinances, regulations, permits, certificates or agreements for or relating to the Land.

(f) Except as reflected on the survey delivered to and approved by Lender, the Land is not located in areas designated by the Secretary of Housing and Urban Development or any other governmental agency as having special flood hazards.

(g) The Land has rights and access to public streets and roads sufficient to permit the Land to be utilized fully in accordance with its zoning and its proposed and existing uses. All utility services (including, without limitation, public water, sanitary sewer and storm sewer facilities, gas, electric, and telephone facilities) sufficient to permit the Land to be utilized fully in accordance with its zoning and its proposed and existing uses is available at the boundary lines of the Land or will be acquired and developed with a portion of the Loan proceeds.

2.2. The Borrower will indemnify and hold the Beneficiary harmless against any loss or liability, cost, or expense, including, without limitation, any judgments, attorneys' fees, costs of appeal bonds and printing costs, arising out of or relating to any breach or alleged breach of these representations.

3. EFFECT OF INSTRUMENT. All terms of the Deed of Trust, as amended by this instrument, shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has signed in the corporate name, sealed, and delivered this

document, all as the act of the corporation, the date first above written.

ROBUCK HOMES, INC.,
a North Carolina corporation

By: Shelley R. Bishop
Vice President



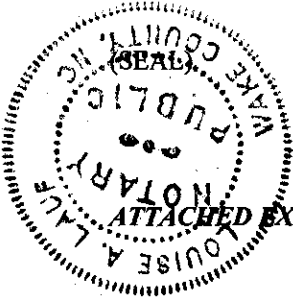
NORTH CAROLINA
Wake COUNTY

I, a Notary Public of the County and State aforesaid, certify that Shelly R. Bishop
personally came before me this day and acknowledged that he/she is Vice President
of Robuck Homes, Inc., a North Carolina corporation, and that by authority duly given and as the act of the
corporation, the foregoing instrument was signed and the corporate seal affixed by him/her in that capacity.

Witness my hand and notarial seal, this 7th day of Feb., 2005.

Louise A. Lang

Notary Public
My Commission Expires: 10-1-05



ATTACHED EXHIBITS:

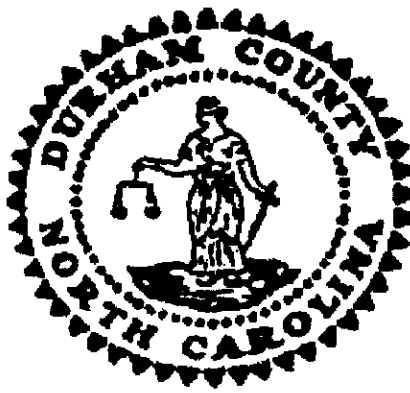
- A - LEGAL DESCRIPTION
- B - PERMITTED EXCEPTIONS

**EXHIBIT A
(LEGAL DESCRIPTION)**

BEING all of Lot 26, according to that map entitled "Southpoint Plantation, Phase One", and now on file in the Office of the Register of Deeds of Durham County in Plat Book 161, Pages 246 through 256, to which map reference is hereby made for a more particular description of same.

**EXHIBIT B
(PERMITTED EXCEPTIONS)**

As set out on Schedule B-Section 2 of Lawyers Title Insurance Corporation Order No. 2020334.



WILLIE L. COVINGTON
REGISTER OF DEEDS, DURHAM COUNTY
DURHAM COUNTY COURTHOUSE
200 E. MAIN STREET
DURHAM, NC 27701

PLEASE RETAIN YELLOW TRAILER PAGE

It is part of recorded document, and must be submitted with original for re-recording and/or cancellation.

Filed For Registration: 02/09/2005 12:37:55 PM

Book: RE 4694 Page: 946-951

Document No.: 2005005704

AMD 6 PGS \$26.00

Recorder: DEBORAH A MORRIS

State of North Carolina, County of Durham

The foregoing certificate of LOUISE A LAUF Notary is certified to be correct. This 9TH of February 2005

WILLIE L. COVINGTON , REGISTER OF DEEDS

By: [Signature]
Deputy/~~Assistant~~ Register of Deeds



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