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## MORTGAGE

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**LENDER:**      **KIAVI FUNDING, INC.**

**BORROWER:**

HUNTER MCCOY PROPERTIES LLC, An Alabama Limited Liability Company

**LOAN No.:** 34797505

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**PREPARED BY  
AND WHEN RECORDED MAIL TO:**

Randi Gray  
Kiavi Funding, Inc.  
Attn: Post Closing Department  
2 Allegheny Center, Nova Tower 2, Suite 200  
Pittsburgh, PA 15212

**Common Address of Property:**

169 Glen Abbey Way, Alabaster, AL 35007

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**PIN:** 149312001001060

## MORTGAGE

THIS MORTGAGE (the "Mortgage") is made on 09-20-2024 by:

HUNTER MCCOY PROPERTIES LLC, An Alabama Limited Liability Company,

("Borrower"), whose address is:

217 Meadowood Ln, Montevallo, AL, 35115, USA,

in favor of **Kiavi Funding, Inc.**, a Delaware corporation, ("Lender"), whose address is:

2 Allegheny Center, Nova Tower 2, Suite 200, Pittsburgh, PA 15212.

### WITNESSETH

WHEREAS, Lender has agreed to provide Borrower with a Loan (the "Loan") as evidenced by that certain Promissory Note Secured by Security Instrument dated of even date herewith in the amount of \$ 263,000.00 by and between Lender and Borrower (the "Note"); and

WHEREAS, Lender is making the Loan in reliance on this Mortgage, and it is a condition precedent to the making of the Loan by Lender that Borrower execute and deliver this Mortgage.

NOW, THEREFORE, in consideration of the foregoing and other benefits accruing to Borrower, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby covenants and agrees with Lender, as follows:

### GRANTING CLAUSES

BORROWER IRREVOCABLY MORTGAGES AND WARRANTS TO LENDER, ITS SUCCESSORS AND ASSIGNS, all of Borrower's present and future estate, right, title and interest in and to the following described property (collectively, the "Property"):

(A) The real property located in the County of Shelby, State of AL, commonly known and addressed as:

169 Glen Abbey Way, Alabaster, AL 35007

and more particularly described in Exhibit A attached to this Mortgage and incorporated herein by reference (the "Land"); and

(B) All Buildings, Fixtures, Easements, Rents and Profits, Development Rights, Water Rights, and Mineral Rights, including without limitation all present and future Leases relating to the foregoing real property and all guaranties and security and security deposits supporting such Leases (as those terms are defined in Article 1 of this Mortgage) (as those terms are defined in Article 1 of this Mortgage); and

(C) All of the following related to the assets specified in (A) and (B) above, (i) Books and Records, plans, specifications, surveys (ii) Insurance Policies, title insurance policies, sales contracts, construction contracts, architectural agreements, engineering contracts, service and maintenance contracts, management contracts, and marketing contracts; (iii) work product arising from any such contract or agreement; (iv) all warranties, guarantees, and other similar contract rights and (v) all other tangible personal property located on or used in connection with the foregoing (excluding only Consumer Goods as defined in the Uniform Commercial Code).

THIS MORTGAGE SECURES THE FOLLOWING INDEBTEDNESS AND OBLIGATIONS (collectively, the “**Obligations**”) in such order of priority as Lender may from time to time elect:

(1) Payment and performance of Borrower’s indebtedness and obligations under the Note and this Mortgage and all extensions, renewals, modifications, and replacements thereof, including the Reserve Advance pursuant to the Note(if applicable) (“**Reserve Advance**”); and

(2) Payment and performance of any and all other indebtedness which may hereafter be owing by Borrower to Lender under the Note, this Mortgage or other Loan Documents, however incurred, including but not limited to the attorneys’ fees, court costs, witness fees, expert witness fees, collection costs, and costs and expenses paid by Lender in the preservation and enforcement of its rights and remedies under this Mortgage or other Loan Documents.

(3) To the extent that Lender’s rights to recover a deficiency from Borrower are subject to California real property law (including without limitation the provisions of Code of Civil Procedure 580a, 580b, 580d, 580e, 726, 726.5 and 736) Borrower and Lender hereby agree and acknowledge that this Security Instrument shall not secure the following obligations which are hereby excluded from the definition of “**Obligations**”: (i) the obligations of Borrower under Section 2.3 of this Security Instrument or (ii) any obligations under any other environmental indemnity agreement or (iii) any obligations under any other guaranty or indemnity agreement

THIS MORTGAGE constitutes (i) a personal property security agreement to the extent that it includes personal property assets hereunder that are not real property assets subject to the applicable real property recording statutes (and Borrower hereby grants Lender a security interest in all such personal property assets to secure the **Obligations**) and (ii) a Fixture Filing in accordance with the Article 9 of the Uniform Commercial Code.

## **ARTICLE 1**

### **DEFINITIONS**

For purposes of this Mortgage, the following terms shall have the following definitions:

**1.1 Books and Records.** “Books and Records” means all books and records relating to the design, construction, improvement, development, use, ownership, operation, maintenance, repair, lease, taxation or marketing of the Property whether kept in hard copy or electronic form.

**1.2 Buildings.** “Buildings” means all buildings, structures and other improvements now existing or hereafter located on the Land.

**1.3 Condemnation Claims.** “Condemnation Claims” means all claims, actions, causes of action, demands, liens, rights, judgments, settlements, awards, compensation, and damages of every kind and nature which Borrower now has or which may hereafter accrue against any Person, whether arising in tort, by contract or statute, or in any other manner, which in any way directly or indirectly relate to or arise out of any condemnation of the Property or other taking of the Property for public or quasi-public use by eminent domain or to the transfer of the Property in lieu of condemnation or any such taking.

**1.4 Condemnation Proceeds.** “Condemnation Proceeds” means all proceeds, tangible and intangible property resulting from the payment, collection of, recovery on, or other disposition of any or all of the Condemnation Claims.

**1.5 Covenants and Restrictions.** “Covenants and Restrictions” means all covenants, conditions, restrictions, equitable servitudes, and all other similar matters now or hereafter affecting the Property, including any condominium, planned unit development, or cooperative apartment declaration of covenants, conditions and restrictions, by-laws, articles, rules, and regulations to which Borrower or the Property is subject or bound.

**1.6 Development Rights.** “Development Rights” means all existing and future development rights, development credits, air rights, and options of any kind relating to the Property.

**1.7 Easements.** “Easements” means all existing and future easements, rights of way, licenses, and similar rights relating or appurtenant to the Property and all existing and future rights in or to streets, roads, sidewalks, alleys, strips and gores adjoining or used in connection with the Property.

**1.8 Event of Default.** “Event of Default” means any of the events described in Article 3 of this Mortgage.

**1.9 Fixtures.** “Fixtures” means all fixtures, machinery, equipment, building materials, appliances, landscaping, systems, built-in furniture, plumbing, electrical, coverings and other commonly recognized fixtures now or hereafter located in, on, attached or affixed to, or used in connection with the Land or the Buildings, including, but not limited to, all HVAC and utility systems; security and access control equipment; water heaters, showers, bathtubs, tanks, pumps, toilets, sinks, pipes, and other plumbing fixtures and equipment; stoves, ranges, refrigerators, dishwashers, and disposals; laundry equipment; engines, motors, generators, boilers, furnaces, and incinerators; wall, window, and floor coverings, including screens, shades, drapes, and awnings; partitions, doors, windows, cabinets, bookcases, and hardware; chandeliers and other light fixtures; trees, plants and other landscaping; and all attachments, substitutions, accessories, accessions, replacements, improvements, and additions to any or all of the foregoing, all of which shall conclusively be deemed to be part of the Land and Buildings and conveyed by this Mortgage, whether or not affixed or attached to the Land or the Buildings.

**1.10 General Partner.** “General Partner” means any Person who is acting as a general partner of a partnership.

**1.11 Governmental Authorities.** “Governmental Authorities” means all governmental or quasi-governmental authorities, boards, bureaus, agencies, commissions, departments, administrative tribunals, and other instrumentalities, judicial and non-judicial authorities, and public utilities having or exercising jurisdiction over Borrower or the Property.

**1.12 Governmental Permits.** “Governmental Permits” means all permits, approvals, and authorizations now or hereafter issued by all Governmental Authorities for or in connection with the Property, including grading permits, foundation permits, building permits, tentative subdivision map approvals, zone changes, zone variances, conditional use permits, temporary certificates of occupancy, and final certificates of occupancy.

**1.13 Governmental Requirements.** “Governmental Requirements” means all existing and future laws, ordinances, rules, regulations, orders, and requirements of all Governmental Authorities applicable to Borrower or the Property, including those respecting the design, construction, improvement, development, use, ownership, operation, maintenance, repair, or marketing of the Property.

**1.14 Guaranty.** “Guaranty” means the guaranty agreement or agreements executed by any Guarantor.

**1.15 Guarantor.** “Guarantor” means the Person or Persons, if any, now or hereafter guaranteeing payment of the Note or payment or performance of any or all of the other Obligations.

**1.16 Impositions.** “Impositions” means all (a) Taxes; (b) Insurance Premiums; (c) gas, electricity, water, sewer, and other utility charges which are incurred for the benefit of the Property or which may become a lien against the Property; (d) assessments, charges, and fees imposed pursuant to any Covenants and Restrictions; (e) assessments, charges and fees payable with respect to any Easements, Water Rights or Development Rights; (f) principal, interest, and other amounts payable in connection with any Liens; and (g) such other taxes, charges, premiums, assessments and impositions relating to the Property, the payment of which Lender determines to be necessary to protect Lender’s security for the Obligations.

**1.17 Improvements.** “Improvements” means the Buildings and Fixtures, collectively.

**1.18 Insurance Claims.** “Insurance Claims” means all claims, actions, causes of action, demands, liens, rights, judgments, settlements, awards, compensation, and damages of every kind and nature which Borrower now has or which may hereafter accrue against any Person, whether arising in tort, by contract or statute, or in any other manner, which in any way directly or indirectly relate to or arise under any policy of insurance which Borrower maintains with respect to the Property or which Borrower is required to maintain under this Mortgage (collectively, the “Insurance Policies”).

**1.19 Insurance Proceeds.** “Insurance Proceeds” means all proceeds, tangible and intangible property resulting from the payment, collection of, recovery on, or other disposition of any or all of the Insurance Claims.

**1.20 Insurance Premiums.** “Insurance Premiums” means all premiums and other amounts payable in connection with procuring or maintaining the Insurance Policies.

**1.21 Leases.** “Leases” means all existing and future rental agreements, leases, licenses, concessions, occupancy agreements, and other similar agreements affecting the Property, including all subleases at any level.

**1.22 Liens.** “Liens” means all mortgages, deeds of trust, mechanics’ liens, and other liens and encumbrances of every kind and nature, other than this Mortgage, now or hereafter affecting the Property.

**1.23 Loan Documents.** “Loan Documents” means the Note, this Mortgage (together with any riders), the Guaranty, and all other documents executed by Borrower or any of the Guarantors and delivered to Lender at Lender’s request in connection with the Loan, and all extensions, renewals, modifications, and replacements of such documents.

**1.24 Manager.** “Manager” means any Person who is acting as a manager of a limited liability company, including any member who is acting in such capacity.

**1.25 Mineral Rights.** “Mineral Rights” means all existing and future right, title, and interest in and to all minerals, oil, gas and other hydrocarbon substances in or on the Property.

**1.26 Person.** “Person” means any natural person or any entity, including any corporation, partnership, joint venture, limited liability company, trust, unincorporated organization, trustee, or Governmental Authority.

**1.27 Property Claims.** “Property Claims” means all claims, actions, causes of action, demands, liens, rights, judgments, settlements, awards, compensation, and damages of every kind and nature (other than the Insurance Claims and Condemnation Claims) which Borrower now has or which may hereafter accrue against any Person, whether arising in tort, by contract or statute, or in any other manner, which in any way directly or indirectly relate to or arise out of any or all of the following: (a) the Property; (b) any existing or future fact, matter, occurrence, or transaction relating to the Property; or (c) the design, construction, improvement, development, use, ownership, operation, maintenance, repair or marketing of the Property.

**1.28 Property Proceeds.** “Property Proceeds” means all proceeds, tangible and intangible property resulting from the payment, collection of, recovery on, or other disposition of any or all of the Property Claims.

**1.29 Rents and Profits.** “Rents and Profits” means all existing and future rents, royalties, issues, profits, proceeds, revenues, income and other benefits of the Property and all Leases, including all security deposits and prepaid rent.

**1.30 Taxes.** “Taxes” means (a) all taxes, bonds, levies and assessments now or hereafter affecting the Property, including all general and special real and personal property taxes, bonds, and assessments affecting the Property; (b) all other taxes, bonds, levies and assessments which now are or hereafter may become a lien on the Property, including all income, profits, franchise, withholding, and gross receipt taxes; (c) all other charges now or hereafter imposed on or assessed against the Property by any Governmental Authority or arising with respect to the design, construction, improvement, development, use, ownership, operation, maintenance, repair or marketing of the

Property; and (d) all taxes, bonds, levies, and assessments now or hereafter imposed by any Governmental Authorities on Lender by reason of their respective interests in the Loan Documents, excluding any franchise, estate, inheritance, income, or similar tax imposed on Lender.

**1.31 Tenants.** “Tenants” means all tenants and occupants of the Property under the Leases.

**1.32 Water rights.** “Water rights” means all existing and future water, water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant), and all water stock relating to the Property.

## **ARTICLE 2**

### **COVENANTS OF BORROWER**

**2.1 Performance of Secured Obligations.** Borrower shall pay and perform each and all of the Obligations in accordance with their respective terms.

**2.2 Preservation of the Property.** Borrower (a) shall maintain the Property in good condition and repair; (b) shall promptly repair and restore in a good and workmanlike manner any part of the Property which may be damaged or destroyed, whether or not any Insurance Proceeds are adequate to pay for the cost of such repair and restoration; (c) shall comply and cause the Property to comply with the provisions of all Insurance Policies; (d) shall comply and cause the Property to comply with all Governmental Requirements; (e) shall comply and cause the Property to comply with all Covenants and Restrictions; (f) shall maintain in effect all Governmental Permits; (g) shall not initiate, join in or consent to any change in the zoning, general plan, specific plan, or any other land use classification affecting the Property or any Covenant or Restriction without the prior written consent of Lender; (h) shall not remove, demolish, improve, add to, or alter the Improvements (excluding non-structural alterations which preserve or increase the value of the Property, alterations required by Governmental Requirements and alterations approved by Lender) or change the character or use of the Property without the prior written consent of Lender; (i) shall not commit or permit any waste respecting the Property or impairment of the Property; (j) shall not abandon the Property; (k) shall not commit or permit any act upon the Property in violation of any Governmental Requirements; (l) shall promptly complete in a good and workmanlike manner, and shall pay, when due, all claims for labor performed and for materials furnished in connection with, Improvements which Borrower commences to construct on the Land; and (m) shall paint, cultivate, irrigate, fertilize, fumigate, prune, maintain and do all other acts, in a timely and proper manner, which from the character or use of the Property may be necessary or appropriate to preserve, protect and maintain the value of the Property. Borrower hereby recognizes and acknowledges that the condition and appraisal of the Property and all relevant documents relating to the Property are important and necessary for Lender to protect its position as secured creditor (whether or not Borrower is a debtor in any bankruptcy, receivership, liquidation or credit restructuring case or proceeding under state or Federal or bankruptcy law). Therefore, Borrower hereby agrees: (a) to promptly provide to Lender all documents and filings reasonably requested by Lender which relate to (i) the Property, (ii) its condition, (iii) any operations related thereto, (iv) the maintenance thereof, (v) any taxes or assessments thereon, (vi) any insurance therefor, (vii) any liens, claims or interests thereon asserted by third parties, (viii) any leases thereof, and (ix) any rents or profits arising therefrom; (b) to provide Lender or its agents upon two days notice with a reasonable opportunity to conduct an internal and external appraisal of the Property and to cooperate with any reasonable requests in connection with such appraisal; and (c) to coordinate with Lender to take the forgoing actions on an expedited basis of not more than one day in the event that Borrower should become a debtor in any bankruptcy, receivership, liquidation or credit restructure case or proceeding under state or Federal or bankruptcy law.

**2.3 Hazardous Substances.** As used in this Section 2.3, (a) “Hazardous Substances” are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) “Environmental Law” means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) “Environmental Cleanup” includes any response action, remedial action, or removal action, as defined

in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, Hazardous Substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**2.4 Insurance.** Borrower shall keep the Improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. Each of the Insurance Policies, including the amounts, form, coverage, deductibles, insurer and loss payable and cancellation provisions, shall be acceptable to Lender and the insurance company providing coverage must have rating of at least A-V or better in the latest edition of "Best's Insurance Guide," must be licensed to do business in the state in which the property is located, and must be licensed to transact the lines of insurance required in this transaction. Without limiting any of the terms of this Section, (i) each of the Insurance Policies shall provide that it may be canceled or modified only upon not less than thirty (30) days prior written notice to Lender; and (ii) the fire and extended coverage and other casualty insurance policies which Borrower is required to maintain under this Mortgage shall contain a mortgagee's loss payable endorsement acceptable to Lender naming Lender as loss payee and shall be written with liability in an amount equal to the lesser of (x) the original principal amount of the Loan plus any Reserve Advance and (y) the full replacement cost of the Improvements. Borrower shall provide evidence to Lender of all required insurance hereunder on or before the closing of the Loan.

**2.5 Insurance Policies.** Within thirty (30) days after closing of the Loan, Borrower shall deliver to Lender the originals of all Insurance Policies together with receipts for the full payment of all Insurance Premiums, and Lender shall have the right to hold such policies as long as any Obligations are outstanding. Lender shall not be liable or responsible for the suitability, adequacy, enforceability, validity, amount, form, or content of any Insurance Policies, the solvency of any insurer, or the collection of any Insurance Proceeds, and Borrower shall at all times have full responsibility for all of such matters. Not later than thirty (30) days prior to the expiration of each of the Insurance Policies, Borrower shall deliver to Lender a policy or policies renewing or extending the expiring Insurance Policies together with written evidence showing payment of the Insurance Premiums for such policies. If Borrower fails to deliver any of the Insurance Policies to Lender in accordance with this Mortgage, or if any of the Insurance Policies is canceled, Lender, without notice to or demand upon Borrower, shall have the right to obtain such insurance in such form, content and amount and with such insurer as Lender determines to be necessary or appropriate to protect its interest. Without limiting any other provision of this Mortgage, all premiums and other costs and expenses paid or incurred by Lender in connection with Lender's obtaining any Insurance Policies under this Section shall be payable by Borrower to Lender on Lender's demand. Lender shall not be obligated to obtain or maintain any policy of insurance with respect to the Property. All Insurance Policies relating to the Property and all unearned Insurance Premiums shall automatically inure to the benefit of and be deemed to be assigned to the grantee of the Property at any judicial or nonjudicial foreclosure sale under this Mortgage or by any deed in lieu of foreclosure under this Mortgage.

**2.6 Assignment of Insurance Claims and Proceeds.** To secure the Obligations, Borrower grants, transfers, and assigns to Lender the Insurance Claims and Insurance Proceeds.

**2.7 Assignment of Condemnation Claims and Proceeds and Other Claims.** To secure the Obligations, Borrower grants, transfers, and assigns to Lender the Condemnation Claims, Condemnation Proceeds, Property Claims, and Property Proceeds.

**2.8 Payment of Proceeds.** Borrower shall cause all Insurance Proceeds, Condemnation Proceeds and Property Proceeds (collectively, the "Proceeds") to be paid or delivered directly to Lender. Lender shall at all times have the right but not the obligation (a) to demand, collect, accept, receive and give receipts for any and all of the Proceeds; and (b) to direct any Person to pay or deliver any or all of the Proceeds directly to Lender. Nothing contained in this Mortgage shall be deemed to obligate Lender to make any inquiry as to the sufficiency of any Proceeds received by Lender. If for any reason Borrower receives any Proceeds, Borrower shall immediately pay, assign, endorse or deliver such Proceeds to Lender in the original form in which received by Borrower and shall not commingle such Proceeds with any of Borrower's other funds or property.

**2.9 Prosecution and Settlement of Claims.** Prior to the occurrence of any Event of Default, Borrower shall have a license to prosecute and enforce the Insurance Claims, Condemnation Claims, and Property Claims (collectively, the "Claims"). Lender shall at all times have the right to appear in, defend, and prosecute any action or proceeding arising out of or relating to any or all of the Claims if Lender determines that such action is necessary or appropriate to protect Lender's interest in connection with the Obligations. Upon the occurrence of an Event of Default, Borrower's license to prosecute and enforce the Claims shall be revoked upon, and to the extent provided in, notice by Lender to Borrower. Following such revocation, Lender, at its option, shall have the exclusive right to prosecute and enforce any or all of the Claims to the extent provided in Lender's notice of revocation and to compromise, adjust, settle or dismiss any or all of the Claims, whether or not Lender has taken possession of the Property. Without Lender's prior written consent, Borrower shall not (a) sell, transfer, pledge, hypothecate or otherwise dispose of or abandon any or all of the Claims; or (b) compromise, adjust, settle, or dismiss any or all of the Claims.

**2.10 Title Policy.** Upon recordation of this Mortgage, Borrower shall cause the Lender to be furnished with an lender's policy of title insurance acceptable to Lender (a) written in an amount equal to the principal amount of the Loan; (b) issued by a title insurance company acceptable to the Lender; (c) showing title to the Property to be vested in a manner acceptable to the Lender; (d) containing a legal description of the Property satisfactory to the Lender; (e) insuring this Mortgage as a first lien on the Property, subject only to such exceptions as have been approved in writing by the Lender; (f) containing such title insurance endorsements as may be required by the Lender; and (g) otherwise acceptable to the Lender in form and substance, including the policy revision date. Within five (5) business days after the Lender's request from time to time, Borrower, at its expense, shall furnish the Lender with such additional title insurance endorsements as the Lender may require insuring the continuing first priority of this Mortgage. Borrower shall at all times cooperate with the Lender and its title insurer and provide the Lender's title insurer with such information as such title insurer may request or require in order to provide the Lender with the policies and endorsements described in this Section.

**2.11 Subordinate Mortgages.** Borrower shall not grant or permit any other Lien on the Property ("Subordinate Mortgage") without Lender's prior written consent. To obtain Lender's written consent, which Lender may withhold for any reason in its discretion, Borrower must first deliver to Lender a written agreement, acceptable to Lender, executed by the holder of the Subordinate Mortgage which provides that (a) the Subordinate Mortgage is and shall at all times remain unconditionally subject and subordinate to this Mortgage; (b) if any action or proceeding is commenced to foreclose the Subordinate Mortgage, no Tenant under any Lease shall be named as a defendant in such action or proceeding, nor shall such action or proceeding terminate any Lease, without Lender's prior written consent; (c) all Rents and Profits, whether collected directly by the holder of the Subordinate Mortgage or through a receiver, shall be applied first to the Obligations, second to the payment of the Impositions, and thereafter to payment of maintenance and operating costs relating to the Property; and (d) the holder of the Subordinate Mortgage shall give written notice to Lender not later than ten (10) days prior to commencing any judicial or nonjudicial action or proceeding to foreclose the Subordinate Mortgage.







Lender determines is necessary or appropriate in connection with enforcing or exercising any right, remedy or power available to or conferred on Lender under the Loan Documents; (b) to contact any Person to verify any information provided or disclosed by Borrower to Lender; and (c) to release such information regarding the Property, Borrower, or the Obligations as Lender may determine to be necessary or appropriate in connection with enforcing or exercising any right, remedy or power available to or conferred on Lender under the Loan Documents. Lender shall have no obligation or duty to inspect the Property, and all such inspections by Lender shall be for Lender's sole benefit and not for the benefit of Borrower or any other Person.

**2.23 Defense of Actions and Protection of Security by Borrower.** Borrower shall appear in and defend any action or proceeding commenced by any Person other than Lender which affects or which Lender determines may affect any or all of the following: (a) the Property; (b) the Insurance Claims, Condemnation Claims, or Property Claims; (c) Lender's or Borrower's respective rights and obligations under the Loan Documents; (d) the Obligations; or (e) any other transaction or matter which affects Lender by reason of its interest in the Property. Borrower shall promptly commence and diligently prosecute all actions and proceedings which are necessary or appropriate or which Lender determines may be necessary or appropriate to do any or all of the following: (i) prevent any damage, destruction, or injury to the Property; (ii) enforce or recover upon the Insurance Claims, Condemnation Claims or Property Claims or collect the Insurance Proceeds, Condemnation Proceeds, or Property Proceeds; or (iii) to preserve, protect, maintain, and defend the Property and Lender's lien thereon.

**2.24 Enforcement of Covenants and Restrictions.** If any of the Covenants and Restrictions apply to Persons owning or occupying real property which is adjacent to or in the vicinity of the Property, Borrower shall diligently enforce the Covenants and Restrictions against such Persons if (a) such Persons have breached their obligations under the Covenants and Restrictions; and (b) such breach has not been cured by such Persons within ninety (90) days after a request by Lender to Borrower to enforce the Covenants and Restrictions.

**2.25 Further Assurances.** Upon Lender's request, Borrower shall execute, acknowledge and deliver to Lender such further documents and agreements and take such further actions as Lender may reasonably require from time to time to effectuate or carry out the purposes of the Loan Documents or to evidence, perfect, maintain, preserve or protect Lender's lien on the Property, including Borrower's execution of security agreements, assignments, financing statements, and continuation financing statements. Upon Lender's request, Borrower shall execute, acknowledge and deliver to Lender an assignment acceptable to Lender of such additional rights, privileges, Governmental Permits, and documents relating to the Property as Lender may reasonably determine to be necessary or appropriate in connection with the design, construction, improvement, development, use, ownership, operation, maintenance, repair or marketing of the Property.

### **ARTICLE 3**

#### **EVENTS OF DEFAULT**

Lender, at its option, shall have the right to declare Borrower to be in default under this Mortgage and the other Loan Documents upon the occurrence of any or all of the following events:

**3.1 Payment of Note and Other Monetary Obligations Under Loan Documents.** If (a) an Event of Default occurs under the terms of the Note; or (b) Borrower fails perform any of its other obligations under the Loan Documents or under any other document with Lender requiring the payment of money to Lender or any third Person within ten (10) days after the date on which such indebtedness or monetary obligation is due.

**3.2 Performance of Non-Monetary Obligations Under Loan Documents.** If Borrower breaches or otherwise fails to perform any of its non-monetary obligations to Lender or any third Person under any of the Loan Documents or under any other document with Lender when due.

**3.3 Misrepresentation.** If any request, statement, information, certification, or representation, whether written or oral, submitted or made by Borrower to Lender in connection with the Loan is false or misleading in any material respect.

**3.4 Insolvency of Borrower.** If (a) a petition is filed by or against Borrower under the federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency or similar law; (b) a receiver, liquidator, trustee, custodian, sequestrator, or other similar official is appointed to take possession of Borrower or the Property, or Borrower consents to such appointment; (c) Borrower makes an assignment for the benefit of creditors; provided, however, that Borrower shall have thirty (30) days within which to cause any involuntary bankruptcy proceeding to be dismissed or the involuntary appointment of any receiver, liquidator, trustee, custodian, or sequestrator to be discharged. The cure provision contained in this Section shall be in lieu of, and not in addition to, any and all other cure provisions contained in the Loan Documents.

**3.5 Performance of Obligations to Senior Lien Holders or Third Persons.** If (i) Borrower fails to pay any of its indebtedness or to perform any of its obligations under any agreement between Borrower and any other Person who holds a Lien senior to this Mortgage when due; or (ii) Borrower fails to pay any of its indebtedness or to perform any of its obligations when due under any other material document between Borrower and any other Person.

**3.6 Attachment.** If all or any material part of the assets of Borrower or Guarantor are attached, seized, subjected to a writ or levied upon by any court process and Borrower fails to cause such attachment, seizure, writ or levy to be fully released or removed within sixty (60) days after the occurrence of such event. The cure provision contained in this Section shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents.

**3.7 Injunctions.** If a court order is entered against Borrower enjoining the conduct of all or part of its business and Borrower fails to cause such injunction to be fully stayed, dissolved or removed within sixty (60) days after such order is entered. The cure provision contained in this Section shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents.

**3.8 Dissolution.** The dissolution, liquidation, or termination of existence of Borrower or any of Borrower's General Partners or Managers.

**3.9 Impairment of Priority.** If (i) the priority of this Mortgage or Lender's security interest under any of the other agreements securing any or all of the Obligations is impaired for any reason; or (ii) the value of the Property has deteriorated, declined or depreciated as a result of any intentional tortious act or omission by Borrower.

**3.10 Condemnation.** If all or any material part of the Property is transferred to any Governmental Authority as a result of any condemnation proceeding or action with respect to all or any material part of the Property.

**3.11 Failure to Repair Casualty.** If there is an uninsured casualty with respect to the Property and Borrower (a) fails to commence repairs and reconstruction of the Property within ninety (90) days after such damage; or (b) thereafter fails to diligently prosecute such repairs and reconstruction to completion.

**3.12 Sales, Transfers and Further Encumbrances.** If any one of the following events occurs without Lender's prior written consent, which may be withheld in Lender's sole and absolute discretion:

(a) the sale, conveyance, transfer, mortgage, encumbrance, lease (except for (i) the leasing of space in the Improvements which is permitted under Section 2.12 of this Mortgage and (ii) the conveyance or transfer of any part or any interest in the Property to a revocable family trust affiliated with Borrower, provided that such conveyance or transfer is solely for estate planning purposes), or alienation of all or any part of the Property or any interest in the Property, whether voluntary or involuntary, or Borrower's grant of any option or agreement to effect any such transaction.

(b) if Borrower or any General Partner or Manager of Borrower is a partnership, the admission, withdrawal, retirement or removal of any General Partner of Borrower or any of Borrower's General Partners or Managers, or the sale or transfer of more than forty-nine percent (49%) of the beneficial interests in Borrower or any of Borrower's General Partners or Managers.





















one or more agents of Lender. Nothing contained in this Mortgage shall be construed to obligate Lender to act on behalf of Borrower as attorney-in-fact.

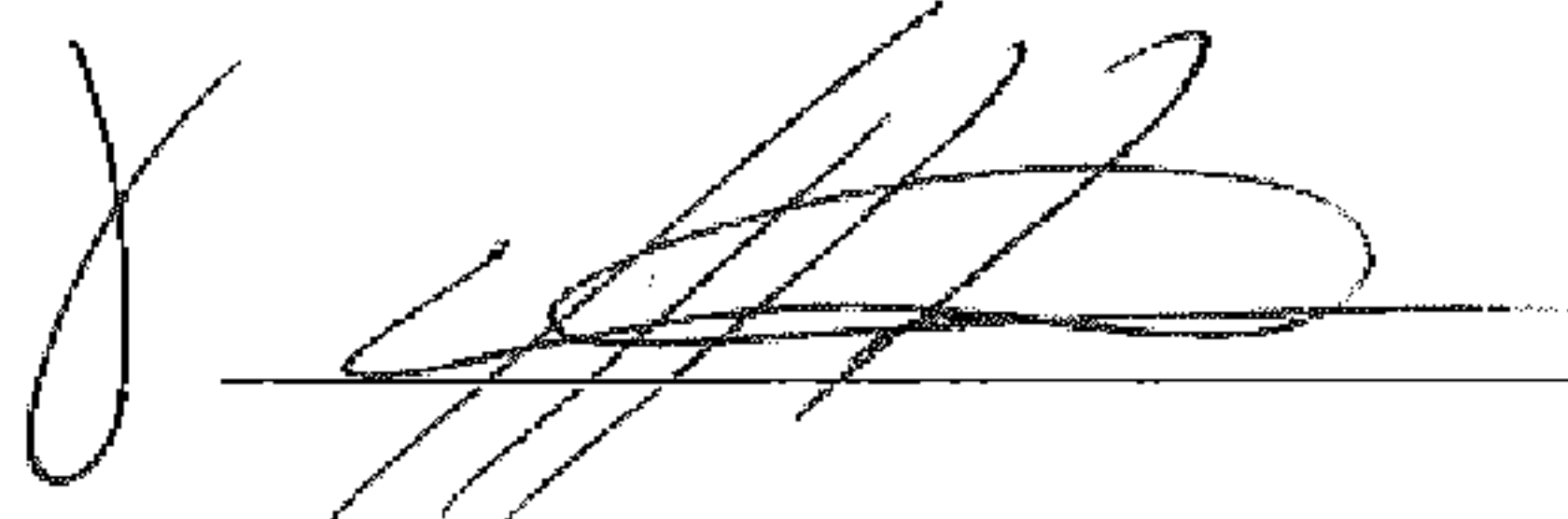
**6.30 Indemnification.** Borrower shall indemnify and hold Lender and its officers, directors, agents, employees, representatives, shareholders, affiliates, successors and assigns (collectively, the "Indemnified Parties") harmless from and against any and all claims, demands, damages, liabilities, actions, causes of action, suits, costs, and expenses, including attorneys' fees and costs, arising directly or indirectly out of or relating to any or all of the following: (a) Borrower's breach of any of its Obligations or warranties under the Loan Documents; (b) any act or omission by Borrower; (c) any act or omission by a contractor, architect or any other Person providing labor, services, materials or equipment in connection with the design, construction, improvement, development, use, ownership, operation, maintenance, repair or marketing of the Property; (d) Borrower's use and occupancy of the Property or any other activity or thing allowed or suffered by Borrower to be done on or about the Property; (e) any claims for commissions, finder's fees or brokerage fees arising out of the Loan or the transactions contemplated by the Loan Documents; and (f) Lender's exercise of any or all of Lender's rights or remedies under the Loan Documents in accordance with the terms thereof, except in the case of negligence or intentional tortious conduct of such Indemnified Party which such Indemnified Party is determined by the final judgment of a court of competent jurisdiction to have committed.

**6.31 State Specific Provisions.** State specific provisions are outlined on Exhibit B (if applicable), attached hereto and incorporated herein.

[the remainder of this page intentionally left blank]

IN WITNESS WHEREOF, Borrower has caused this Mortgage to be executed as of the day and year first written above.

**BORROWER:** HUNTER MCCOY PROPERTIES LLC, An Alabama Limited Liability Company

A handwritten signature in black ink, appearing to be 'Jeff Fulton', is written over a horizontal line.

By: Jeff Fulton, Member

---

**NOTE: ALL SIGNATURES ON THIS MORTGAGE MUST BE NOTARIZED**

**EXHIBIT "A"**  
**Property Description**

**Closing Date:** September 20, 2024

**Buyer(s):** Hunter McCoy Properties, LLC

**Property Address:** 169 Glen Abbey Way, Alabaster, AL 35007

**PROPERTY DESCRIPTION:**

Lot 71, according to the Survey of Weatherly Glen Abbey, Sector 12, Phase 3, as recorded in Map Book 19, Page 156, in the Probate Office of Shelby County, Alabama, being situated in Shelby County, Alabama.

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Al)

County of Jefferson)

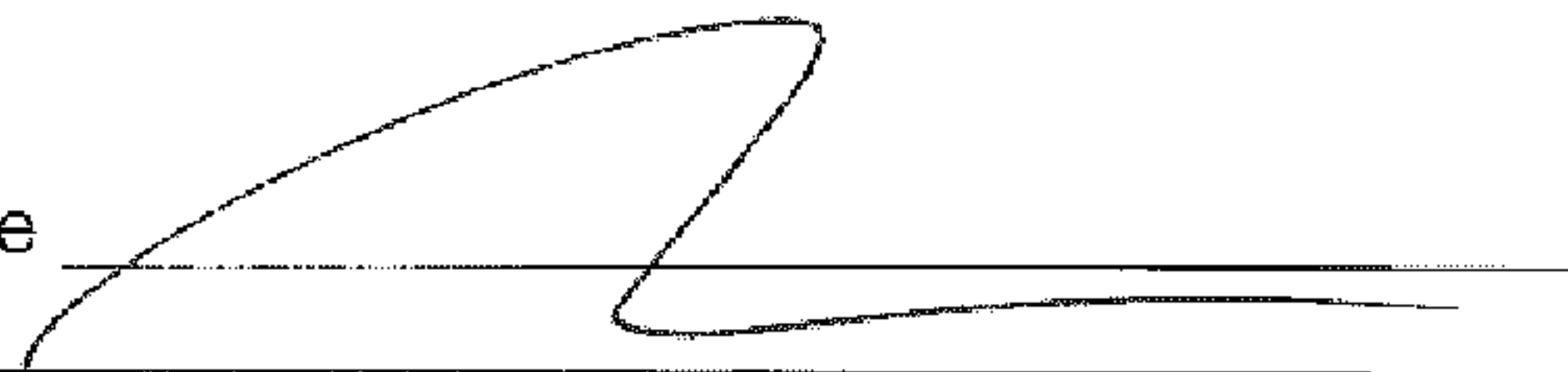
On September 20, 2024 before me, Jeffrey Adam Morris, Notary Public  
(insert name and title of the officer)

personally appeared Jeff Fulton as Member of Hunter/McCoy Properties LLC,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

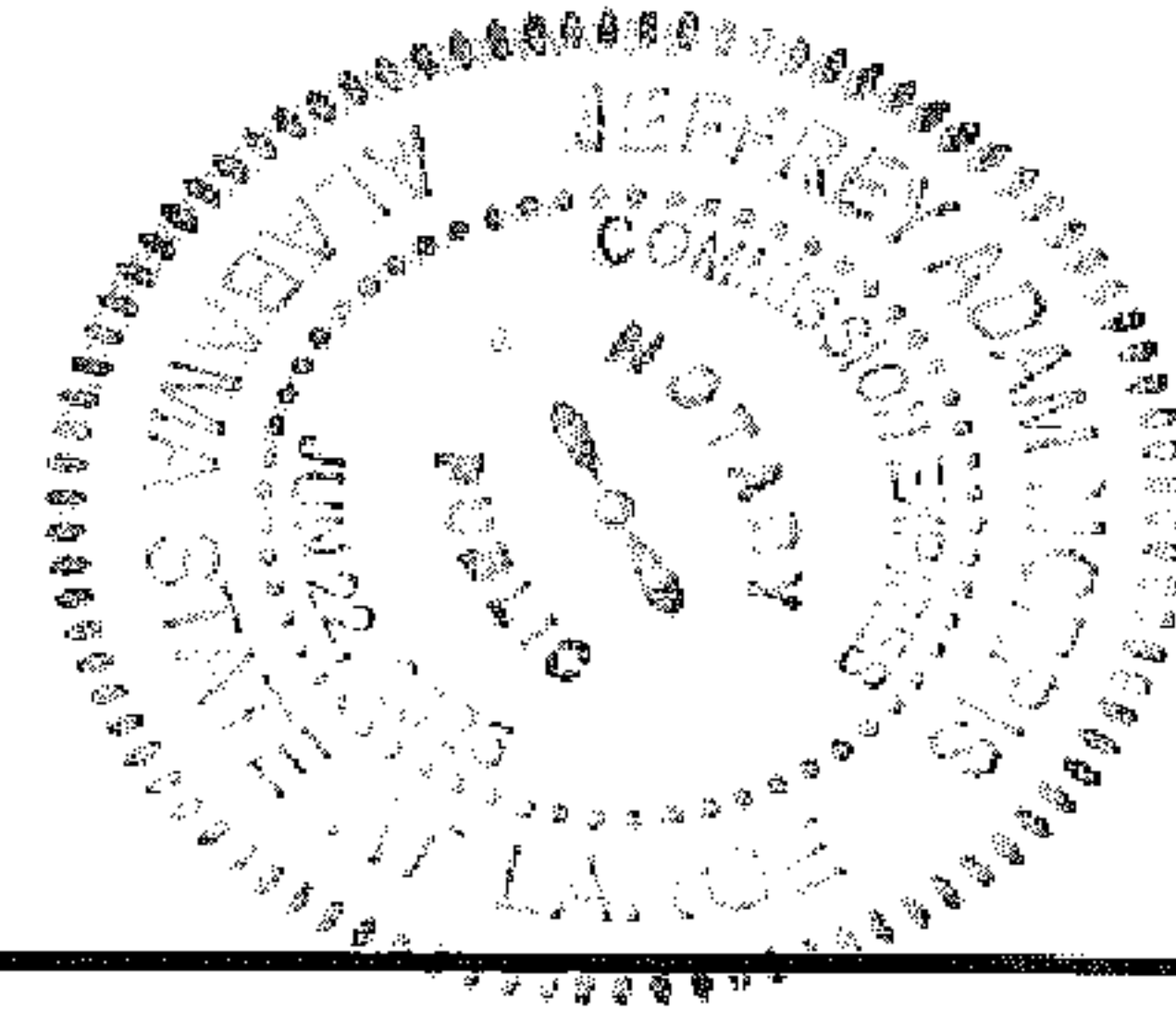
I certify under PENALTY OF PERJURY under the laws of the State of Alabama that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)





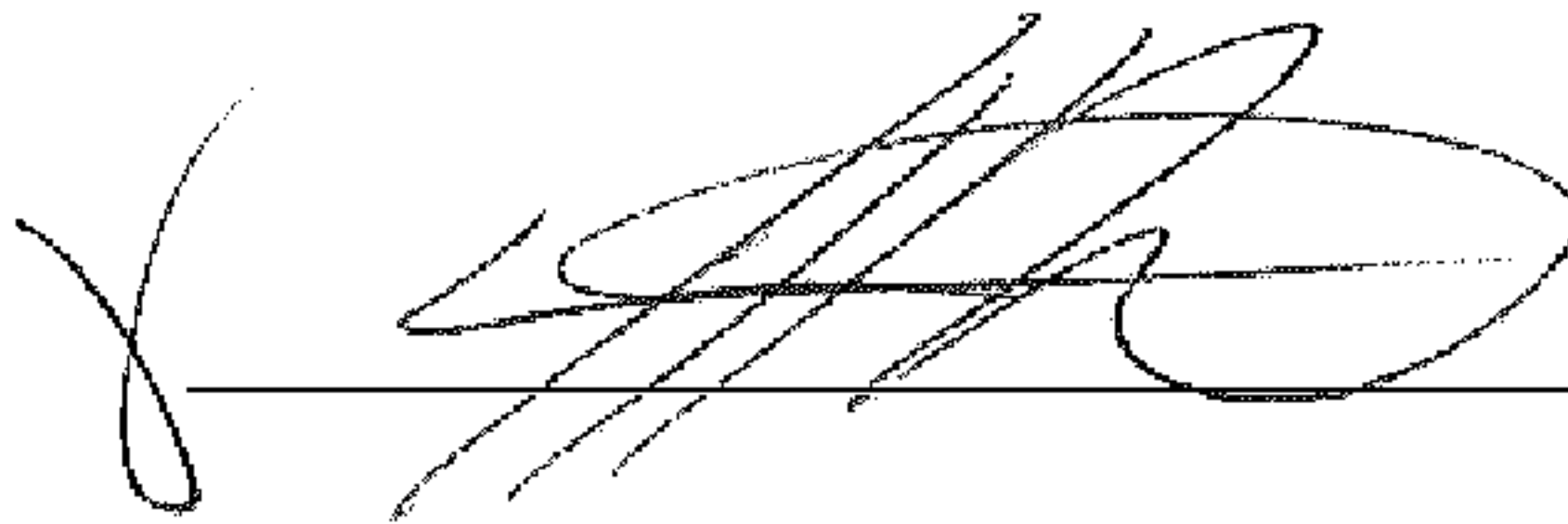
Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

**F. Remedies.** If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this PUD Rider.

Borrower: HUNTER MCCOY PROPERTIES LLC, An Alabama Limited Liability Company

A handwritten signature in black ink, appearing to read 'Jeff Fulton', is written over a horizontal line.

By: Jeff Fulton, Member

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Al

County of Jefferson

On September 20, 2024 before me, Jeffrey Adam Morris, Notary Public  
(insert name and title of the officer)

personally appeared Jeff Fulton as Member of Hunter McCoy Properties, LLC  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

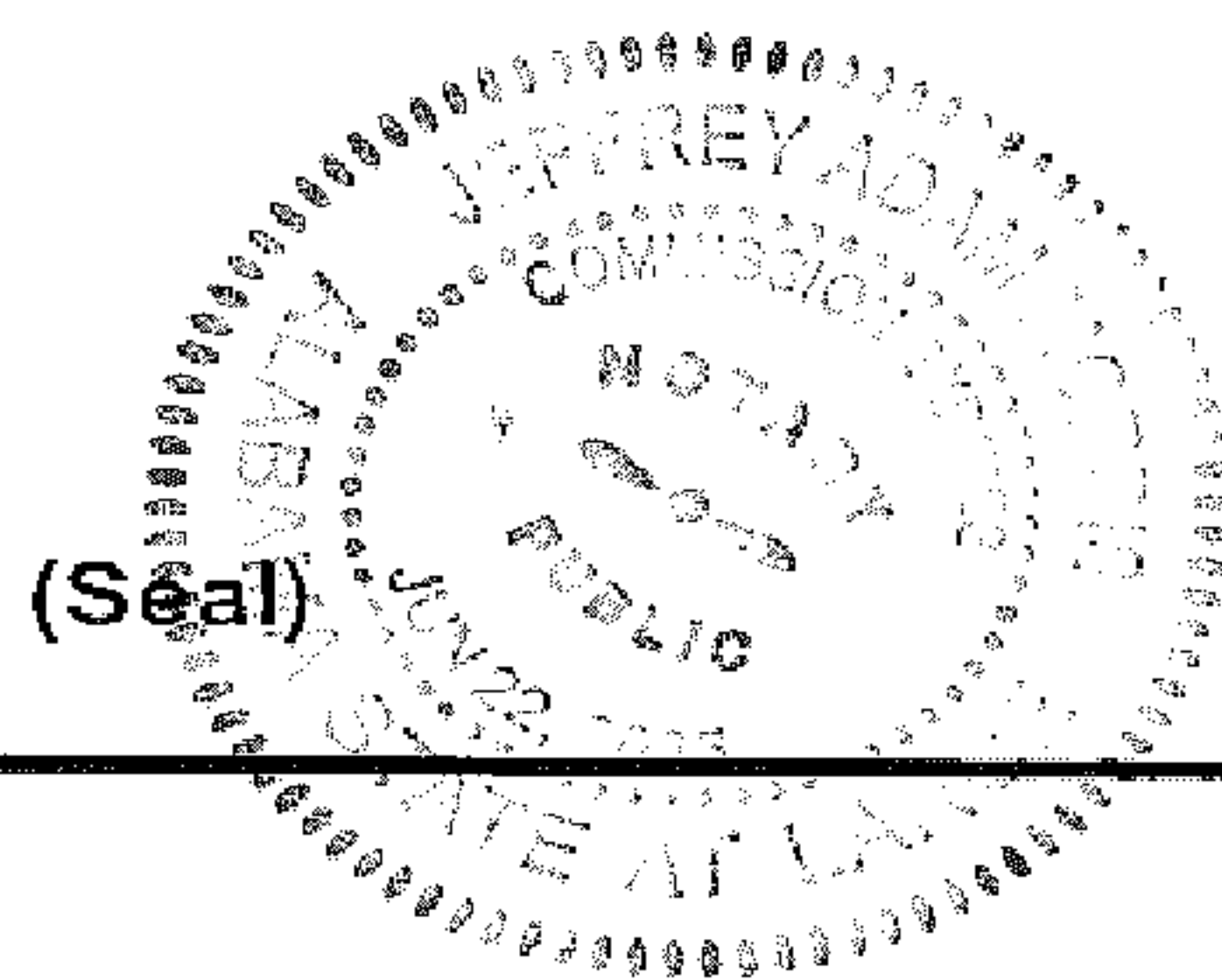
I certify under PENALTY OF PERJURY under the laws of the State of Alabama that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



**CONSTRUCTION LOAN RIDER  
TO SECURITY INSTRUMENT  
(Principal Advances)**

This Construction Loan Rider B to Security Instrument (the “**Rider**”) is attached to and made a part of the Deed of Trust, Mortgage, or Security Deed (the “**Security Instrument**”, and together with the Rider, the “**Agreement**”) including an Assignment of Rents, and Fixture Filing dated 09-20-2024 \_\_\_\_\_ executed by:

HUNTER MCCOY PROPERTIES LLC, An Alabama Limited Liability Company \_\_\_\_\_ (“**Borrower**”), for the benefit of **Kiavi Funding, Inc.**, a Delaware corporation (“**Lender**”), and encumbering the property described in the Security Instrument. Capitalized terms used in this Rider without definition have the meanings ascribed to them in the Security Instrument and/or Note.

WHEREAS, Borrower desires to finance the construction of certain improvements to the Property and Borrower and Lender desire to establish certain terms and conditions relating to the advance of proceeds of the Construction Loan for such construction.

WHEREAS, all references to the word “Loan” in the Security Instrument should include this Construction Loan.

NOW, THEREFORE, for valuable consideration, the Security Instrument is hereby amended and supplemented as follows:

**I. CHANGE IN DEFINED TERMS:**

1. The words “the reserve advance” in paragraph (1) of the definition of “Obligations” on page two of the Security Instrument are hereby replaced by the words “any advance,” and the word “Reserve” is hereby deleted from the parenthetical at the end of said paragraph.

2. The defined term “Reserve Advance” in clause (ii) of the penultimate sentence of Section 2.4 of the Security Instrument is hereby replaced by the defined term “Advance”.

**II. CONSTRUCTION PROVISIONS:**

The following Article 7 is hereby added to the Security Instrument:

**ARTICLE 7**

**CONSTRUCTION PROVISIONS**

**7.1 Additional Definitions.** For purposes of this Security Instrument, the following terms shall have the following definitions:

(a) **Account.** “Account” means a construction loan account used to deposit additional funds provided by Borrower, if applicable.

























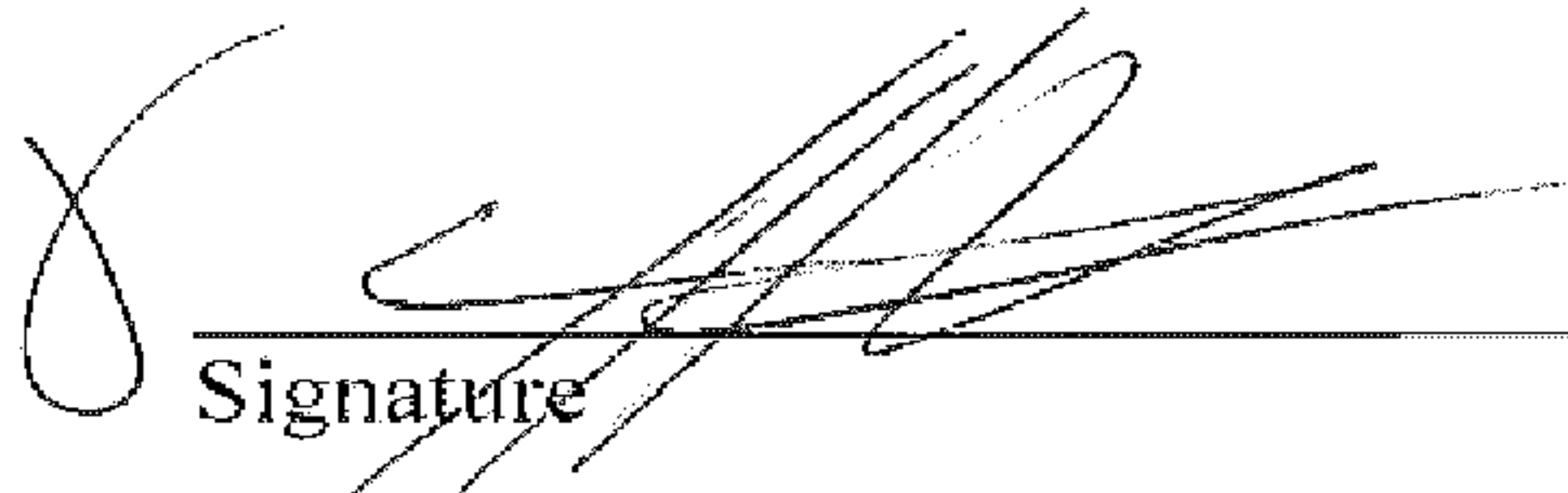






IN WITNESS WHEREOF, Borrower has caused this instrument to be executed as of the date indicated on the Security Instrument.

**BORROWER:** HUNTER MCCOY PROPERTIES LLC, An Alabama Limited Liability Company

  
\_\_\_\_\_  
Signature  
By: Jeff Fulton, Member

\_\_\_\_\_  
Signature

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Al

County of Jefferson

On September 20, 2024 before me, Jeffrey Alan Morris, Notary Public  
(insert name and title of the officer)

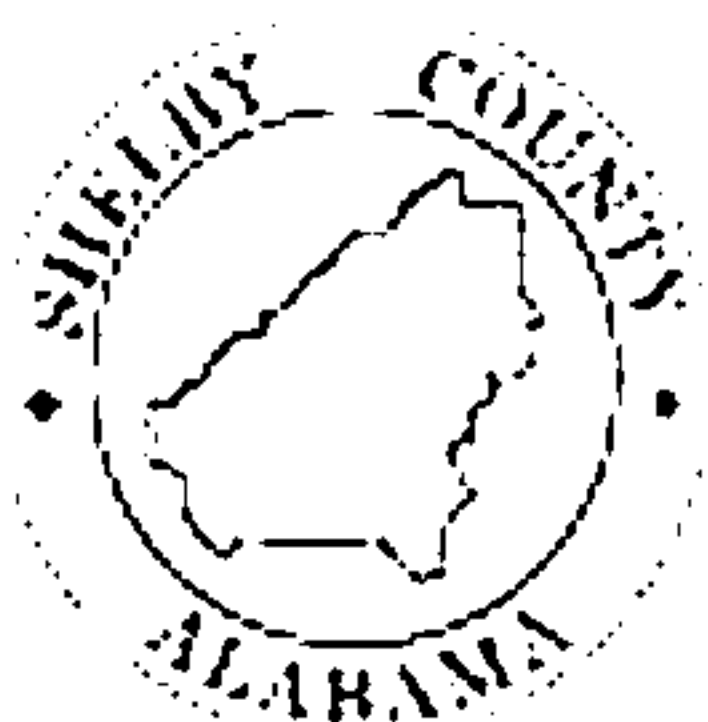
personally appeared Jeff Fulton as Member of Hunter McLoey Properties LLC, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Alabama that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
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*Allen S. Bayl*