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Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "*Property*"). When the Secured Debt (hereafter defined) is paid in full and all underlying agreements have been terminated, this Mortgage will become null and void.

**2. Maximum Obligation Limit.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$500,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

**3. Secured Debt.** The term "*Secured Debt*" is defined as follows:

(A) Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, refinancings, modifications or substitutions.

The credit agreement signed by DAVID MAROTTA (the "*Borrower*") and dated the same date as this Security Instrument (the "*Note*"). Under the Note, the Lender agrees, subject to certain terms, conditions and limitations, to make advances to the Borrower in a principal amount outstanding not to exceed Five hundred thousand and 00/100 Dollars (U.S. \$500,000.00). Borrower has promised to pay this debt with interest in regular periodic payments and to pay the debt in full not later than April 19, 2056.

(B) All future advances from Lender to Mortgagor and/or Borrower under the Secured Debt executed by Mortgagor and/or Borrower in favor of Lender after this Security Instrument. If more than one person signs this Security Instrument, each agrees that this Security Instrument will secure all future advances that are given to Mortgagor and/or Borrower either individually or with others who may not sign this Security Instrument. All future advances are secured by this Security Instrument even though all or part may not yet be advanced. All future advances are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future advances in any amount. Any such commitment must be agreed to in a separate writing.

(C) All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

This Security Instrument will not secure any other debt if any part of the improvements on the Property is located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area.

**4. Mortgage Covenants.** Mortgagor agrees that the covenants in this section are material obligations under the Secured Debt and this Security Instrument. If Mortgagor breaches any covenant in this section, Lender may refuse to make additional extensions of credit and reduce the credit limit. By not exercising either remedy on Mortgagor's breach, Lender does not waive Lender's right to later consider the event a breach if it happens again.

**Payments.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

**Prior Security Interests.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees to make all payments when due and to perform or comply with all covenants. Mortgagor also agrees not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written approval.

**Claims Against Title.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to





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**Leaseholds; Condominiums; Time-Shares; Planned Unit Developments.** Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium, time-share or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development. In addition, except with the written approval of Lender, Mortgagor will not partition or subdivide the Property; abandon or terminate the condominium, time-share or planned unit development project; terminate professional management; or amend any provision of the covenants, bylaws or regulations of the condominium, time-share or planned unit development if the provision benefits Lender.

**Condemnation.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

**Insurance.** Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debt. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgagee clause" and, where applicable, "loss payee clause". Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt existing immediately before the acquisition.

**Financial Reports and Additional Documents.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.

**5. Warranty of Title.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, and mortgage, with power of sale, the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

**6. Due on Sale.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, a transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable.



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**7. Warranties and Representations.** Mortgagor has the right and authority to enter into this Security Instrument. The execution and delivery of this Security Instrument will not violate any agreement governing Mortgagor or to which Mortgagor is a party.

**8. Default.** Mortgagor will be in default if any of the following occur:

**Fraud.** Any Borrower engages in fraud or material misrepresentation in connection with the Secured Debt that is an open end home equity plan.

**Payments.** Any Borrower on any Secured Debt that is an open end home equity plan fails to make a payment when due.

**Property.** Any action or inaction by Borrower or Mortgagor occurs that adversely affects the Property or Lender's rights in the Property. This includes, but is not limited to, the following: (a) Mortgagor fails to maintain required insurance on the Property; (b) Mortgagor transfers the Property; (c) Mortgagor commits waste or otherwise destructively uses or fails to maintain the Property such that the action or inaction adversely affects Lender's security; (d) Mortgagor fails to pay taxes on the Property or otherwise fails to act and thereby causes a lien to be filed against the Property that is senior to the lien of this Security Instrument; (e) a sole Mortgagor dies; (f) if more than one Mortgagor, any Mortgagor dies and Lender's security is adversely affected; (g) the Property is taken through eminent domain; (h) a judgment is filed against Mortgagor and subjects Mortgagor and the Property to action that adversely affects Lender's interest; or (i) a prior lienholder forecloses on the Property and as a result, Lender's interest is adversely affected.

**9. Remedies on Default.** In addition to any other remedy available under the terms of this Security Instrument, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, or other notices and may establish time schedules for foreclosure actions.

At the option of the Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter.

The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it happens again.

If Lender initiates a judicial foreclosure, Lender shall give the notices as required by applicable law. If Lender invokes the power of sale, Lender shall publish the notice of sale, and arrange to sell all or part of the Property, as required by applicable law. Lender or its designee may purchase the Property at any sale. Lender shall apply the proceeds of the sale in the manner required by applicable law. The sale of any part of the Property shall only operate as a foreclosure of the sold Property, so any remaining Property shall continue to secure any unsatisfied Secured Debt and Lender may further foreclose under the power of sale or by judicial foreclosure.

**10. Expenses; Advances on Covenants; Attorneys' Fees; Collection Costs.** If Mortgagor breaches any covenant in this Security Instrument, Mortgagor agrees to pay all expenses Lender incurs in performing such covenants or protecting its security interest in the Property. Such expenses include, but are not limited to, fees incurred for inspecting, preserving, or otherwise protecting the Property and Lender's security interest. These expenses are payable on demand and will bear interest from the date of payment until paid in full at the highest rate of interest in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. If the Secured Debt is subject to the *Alabama Mini-Code*, then reasonable attorneys' fees not to exceed 15% of the unpaid debt after default are available





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to pay the Escrow Items. Lender will give Mortgagor, without charge, an annual accounting of the Funds. That accounting must show all additions to and deductions from the Funds and the reason for each deduction.

Lender may not charge Mortgagor for holding or keeping the Funds, for using the Funds to pay Escrow Items, for analyzing Mortgagor's payments of Funds, or for receiving, verifying and totaling assessments and bills. However, Lender may charge Mortgagor for these services if Lender pays Mortgagor interest on the Funds and if the law permits Lender to make such a charge. Lender may require Mortgagor to pay a one-time charge for an independent real estate tax reporting service used by Lender in accordance with the Secured Debts, unless applicable law provides otherwise. Lender will not be required to pay Mortgagor any interest or earnings on the Funds unless either (i) Lender and Mortgagor agree in writing, at the time Mortgagor signed this Security Instrument, that Lender will pay interest on the Funds; or (ii) the law requires Lender to pay interest on the Funds.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender will account to borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may notify borrower in writing, and, in such case, borrower will pay to Lender the amount necessary to make up the shortage or deficiency. Borrower shall make up the shortage or deficiency as Lender directs, subject to the requirements of applicable law.

If, by reason of any default under this Security Instrument, Lender declares all Secured Debts due and payable, Lender may then apply any Funds against the Secured Debts.

When Mortgagor has paid all of the sums secured, Lender will promptly refund to Mortgagor any Funds that are then being held by Lender.

**13. Joint and Individual Liability; Co-Signers; Successors and Assigns Bound.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.

**14. Severability; Interpretation.** This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.

**15. Notice.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address in this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

**16. Waivers.** Except to the extent prohibited by law, Mortgagor waives all appraisal rights relating to the Property.

**17. Line of Credit.** The Secured Debt includes a revolving line of credit. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until the Secured Debt is paid in full and all underlying agreements have been terminated in writing by Lender.



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**18. Applicable Law.** This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located.

**19. Riders.** The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument.

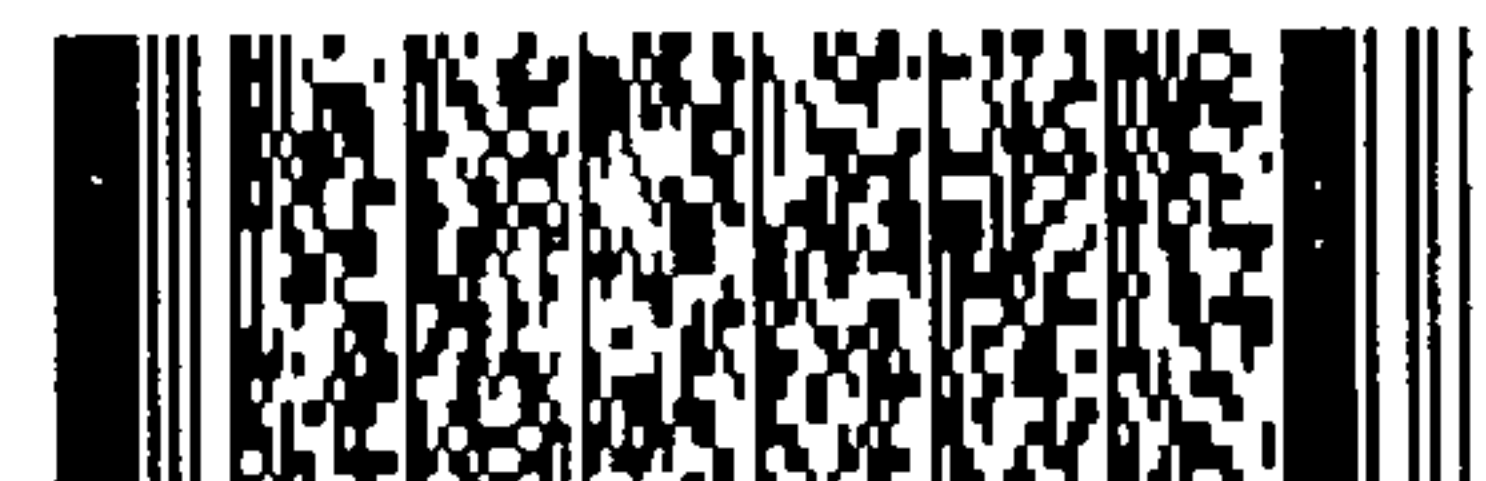
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Assignment of Leases and Rents  Other: \_\_\_\_\_

**20. Additional Rights and Remedies Upon Default and Foreclosure.** Upon the occurrence of an Event of Default, Lender, in addition to the other rights and remedies provided in this Security Instrument, at law and in equity, shall have the right at any time, at its option and sole discretion, to pay any or all indebtedness secured by a prior security interest in the Property (an "Existing Lien"), and to cause any or all Existing Liens, or other liens, on the Property to be discharged, whether or not such indebtedness, Existing Liens or other liens are in default, and any such payment by Lender shall constitute Secured Debt as defined herein. Lender's right of payment and discharge, expressly hereby authorized by Mortgagor, includes the right of Lender to pay any and all proceeds (including but not limited to excess proceeds above the amount owed) arising from collection efforts (including foreclosure sale or any other subsequent sale by Lender) toward any indebtedness evidenced by a recorded lien against the Property, whether or not such lien was extinguished upon foreclosure. Mortgagor expressly authorizes Lender to communicate with other lienholders, holders and/or owners (and their agents, representatives and servicers) of such other indebtedness, and to rely on information obtained from them in order to make such payment to them. In addition to and not in limitation of the other rights of Lender provided in this Security Instrument, at law and in equity, until all sums owed under the Note have been paid to or otherwise recovered by Lender, any and all reasonable attorneys' fees, expenses and carrying costs (including but not limited to insurance, ad valorem taxes, improvements, maintenance, repairs, assessments, association dues, environmental reports, surveys, closing costs, real estate commissions, advertising and marketing) incurred by Lender during the course of collection and recovery (both before and after foreclosure) shall constitute Secured Debt as defined herein. Mortgagor agrees that in the event Lender sells the Property post-foreclosure during any applicable redemption period, any payment and discharge of liens, and any and all reasonable attorneys' fees, expenses, costs of sale and carrying costs (including but not limited to those described above) incurred by Lender during Lender's period of ownership of the Property shall be deducted for the purposes of determining any profit realized.

**21. Defense Costs.** Subject to any limits under applicable law, in addition to the costs and expenses Grantor has agreed to pay within this Mortgage, Grantor will pay all costs and expenses incurred by Lender arising out of our relating to any steps or actions Lender takes to defend any unsuccessful claim, allegation, remedy or counterclaim Borrower may assert against Lender. Such costs and expenses shall include, without limitation, reasonable attorneys' fees and costs.

**22. Authorization to Other Lien Holders.** The Grantor hereby authorizes the holder of any other mortgage, lien or encumbrance on any portion of the Real Property and any other party claiming any interest in the Real Property whatsoever to disclose to the Lender any and all information the Lender may request, including, without limitation: (1) the nature of such interest in or claim to the Real Property; (2) the amount of such interest or claim or of any indebtedness or obligation secured by any mortgage, lien or encumbrance; (3) the amount of any such indebtedness or obligation that is unpaid; (4) whether any amount owed on any such indebtedness or obligation is or has been in arrears; (5) whether there is or has been any default with respect to any such mortgage, lien or encumbrance or the indebtedness or obligation secured thereby; and (6) any other information regarding such interest, claim, mortgage, lien or encumbrance or the indebtedness or obligation secured thereby which the Lender may request from time to time. This authorization shall be effective without any further action, notice, authorization or consent from the Grantor and shall remain in full force and effect for so long as this Mortgage remains unsatisfied and has not been released.



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**23. Private Flood Insurance.** If the Property is at any time deemed to be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area and if Federal Flood Insurance is not available, Grantor agrees to obtain and maintain flood insurance in an amount equal to the maximum amount of Grantor's credit line and the full unpaid principal balance of any prior liens on the Property. Such flood insurance will be with such insurer as is satisfactory to Lender. Such flood insurance will also be on such terms as are satisfactory to Lender, including deductible provisions, endorsements, a standard mortgagee clause in favor of Lender, and stipulations that coverage will not be cancelled or diminished without as least ten (10) days' prior written notice to Lender with no disclaimer for failure to give such cancellation notice.

**24. Subordination, Partial Release and Other Modification Requests.** From time to time, Mortgagor or Borrower may request that Lender subordinate the lien of this Security Instrument to another lien, release part of the Property from the lien of this Security Instrument, or agree to some other modification of this Security Instrument or the Credit Agreement or any related document. Lender is not obligated to agree to any such request. Lender may, in its sole discretion, impose conditions on its agreement to any such request. Such conditions may include, without limitation, imposing a fee or increasing the interest rate under the Credit Agreement, or both.

**Signatures**

By signing under seal below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated in this Security Instrument.

Signed, sealed and delivered:

**Mortgagor**



**DAVID MAROTTA** *Seal*



