

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 20-CIV-81205-RAR

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

COMPLETE BUSINESS SOLUTIONS  
GROUP, INC., d/b/a PAR FUNDING, *et al.*,

Defendants.

**SCR JOINT VENTURE, L.P.S' MOTION TO INTERVENE**

SCR Joint Venture, L.P., an Ohio limited partnership (“SCR”), by and through undersigned counsel and pursuant to Rule 24 of the Federal Rules of Civil Procedure and Local Rule 7.1 of the Southern District of Florida (2024), files *SCR Joint Venture, L.P.s' Motion to Intervene* in the above-captioned action, and as grounds therefore, SCR states as follows:

**Factual Background**

1. SCR is the holder of a mortgage and assignment of rents on three real properties located in Pulaski County, Arkansas, pledged by M&M Real Estate, LLC as security for indebtedness owed by M&M Real Estate, LLC and/or its related entities, M&M Holding, Inc. and Davis Trailer & Equipment, Inc.

2. According to the Public Records of Pulaski County, Arkansas, the defendant Complete Business Solutions, LLC holds a Deed of Trust, recorded on November 26, 2019 as Document No. 2019076197.

**LORIUM LAW**

FT. LAUDERDALE BOCA RATON CHICAGO ATLANTA

3. As a result of a default by the borrowers identified in paragraph 1 above, SCR commenced a foreclosure action in Pulaski County, Arkansas. A copy of the *First Amended Complaint* is attached hereto as **Exhibit “A”**.

4. The primary defendant herein, Complete Business Solutions Group, Inc. (“CBSG”) is also named as a defendant in the foreclosure action by virtue of the *Deed of Trust* given by the property owner, M&M Real Estate, LLC, to CBSG, which is junior to the mortgage being foreclosed by SCR.

5. SCR first learned of the CBSG’s receivership proceeding on or about December 22, 2023, and upon being advised of such, sought the consent of the Receiver with respect to the entry of a final decree granting SCR a judgment of foreclosure. Attached hereto as **Exhibit “B”** is a copy of the proposed Final Decree.

6. After a number of discussions with Receiver’s counsel, SCR has been unable to further engage the Receiver.

7. Accordingly, by way of this *Motion*, SCR seeks to intervene in the action in order to obtain relief from this Court to allow SCR to continue its foreclosure action in Arkansas, including obtaining in rem relief against the Receiver.

**Memorandum of Law**

Intervention is governed by Rule 24 of the Federal Rules of Civil Procedure, which provides:

- (a) Intervention of Right. On timely motion, the court must permit anyone to intervene who:
  - (1) is given an unconditional right to intervene by a federal statute; or
  - (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.
- (b) Permissive Intervention

- (1) *In General*. On timely motion, the court may permit anyone to intervene who:
- (A) is given a conditional right to intervene by a federal statute; or
  - (B) has a claim or defense that shares with the main action a common question of law or fact.

...

Rule 24, Fed.R.Civ.P.

The prevailing view favors intervention when a request is made to do so, if the proceedings will have a practical effect on the putative party seeking to intervene:

Rule 24 is broadly construed in favor of potential intervenors. *United States v. Stringfellow*, 783 F.2d 821, 826 (9th Cir. 1986); *Jansen*, 904 F.2d at 340 ("The need to settle claims among a disparate group of affected persons militates in favor of intervention."); Advisory Committee Note to Rule 24(a)(2) ("If an [applicant] would be substantially affected in a practical sense by the determination made in an action, [the applicant] should, as a general rule, be entitled to intervene. . . .").

*Purnell v. Akron*, 925 F.2d 941, 950 (6<sup>th</sup> Cir. 1991).

#### **A. Intervention as a Matter of Right**

The requirements to intervene as matter of right under paragraph (a) of Rule 24 are:

(1) the application to intervene is timely; (2) the party seeking to intervene has an interest relating to the property or transaction which is the subject of the actions; (3) the movant is so situated that disposition of the action, as a practical matter, may impede or impair his ability to protect that interest; and (4) his interest is represented inadequately by the existing parties to the suit." *Fox [v. Tyson Foods, Inc.]*, 519 F.3d 1298, 1302-03 [(11th Cir. 2008)]. When a party fails to establish one of these requirements, it is unnecessary to analyze any of the remaining requirements. *See, e.g., Worlds v. Dep't of Health & Rehab. Servs.*, 929 F.2d 591, 595 (11th Cir. 1991).

*Plaintiff-Appellee v. Barth (In re Sealed Search Warrant United States)*, 2023 U.S. App. LEXIS 20199 , \*4 (11<sup>th</sup> Cir. 2024).

#### **I. Timeliness of Motion to Intervene**

SCR asserts that this *Motion* is timely because upon learning of the receivership, SCR immediately began to seek the Receiver's consent to the *Foreclosure Decree*, but has been unable to do so or further engage the Receiver despite repeated attempts to continue the discussion.

## **II. SCR's Has Interest in Property Subject to this Action**

By virtue of the *Deed of Trust* given to CBSG, which is now in the hands of the Receiver, SCR, as a result of its senior interest in the real property, has an interest in a property that is subject to this action.

## **III. Disposition of the Action May Impede SCR's Interest**

If SCR is unable to intervene in this action and obtain either the consent of the Receiver or an order of this Court granting SCR relief to continue the foreclosure action, SCR's will be stymied and unable to mitigate its damages by not being able to pursue valuable collateral securing its claim.

## **IV. SCR's Interest is Not Currently Adequately Protected**

By virtue of the competing interests of the Receiver and SCR in the real property that is the subject of the foreclosure action, SCR's interest is currently not adequately protected in this proceeding.

Accordingly, SCR asserts that it is entitled to intervene in this action as a matter of right pursuant to Rule 24(a), Fed.R.Civ.P.

## **B. Permissive Intervention**

Alternatively, should the Court find that SCR is not permitted to intervene as a matter of right, SCR is entitled to do so permissively, as provided for under paragraph (b) of Rule 24, because the Receiver and SCR have claims or defenses "that share[] with the main action a common question of law or fact." Rule 24(b), Fed.R.Civ.P. Those common questions are the

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relative interests of the Receiver and SCR in the real property that serves as collateral for both of the parties and whether SCR should be granted in rem relief to be able to foreclose the Receiver's interest in the property. SCR asserts that it should.

**Certification Pursuant to Local Rule 7.1(a)(3)**

The undersigned counsel for SCR certifies that on May 7, 2024, the undersigned attempted to reach counsel for the Receiver via telephone and email with respect to the relief sought herein but was unable to do so. The undersigned sent a follow-up email to counsel for the Receiver on May 23, 2024, but as of the filing of this *Motion*, the undersigned has not received a response.

WHEREFORE, the SCR Joint Venture, L.P., by and through undersigned counsel, requests that this Court grant this *Motion* and grant the SCR any further relief this Court deems just and proper.

Dated this 6<sup>th</sup> day of June, 2024.

**LORIUM LAW**  
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By: /s/ Jason E. Slatkin  
Jason E. Slatkin  
Florida Bar No. 040370  
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**Certificate of Service**

I CERTIFY that a true copy of the foregoing has been served via email through the Court's e-portal to those entitled to service hereof on this 6<sup>th</sup> day of June, 2024.

/s/ Jason E. Slatkin  
Jason E. Slatkin

5535.454

# EXHIBIT “A”

ELECTRONICALLY FILED  
Pulaski County Circuit Court  
Terri Hollingsworth, Circuit/County Clerk  
2023-Dec-08 16:23:40  
60CV-22-8029  
C06D11 : 109 Pages

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
ELEVENTH DIVISION**

**SCR JOINT VENTURE, L.P.**

**PLAINTIFF**

vs.

**CASE NO. 60CV-22-8029**

**M & M HOLDING, INC., M&M REAL ESTATE, LLC,  
DAVIS TRAILER & EQUIPMENT, INC., ROC FUNDING  
GROUP LLC, HAROLD MAJORS, TERESA MAJORS,  
COMPLETE BUSINESS SOLUTIONS GROUP, INC.,  
DEBRA BUCKNER, IN HER OFFICIAL CAPACITY AS PULASKI  
COUNTY TAX COLLECTOR, TOMMY LAND, IN HIS OFFICIAL  
CAPACITY AS COMMISSIONER OF STATE LANDS OF THE  
STATE OF ARKANSAS, AND STATE OF ARKANSAS  
DEPARTMENT OF FINANCE AND ADMINISTRATION**

**DEFENDANTS**

**FIRST AMENDED COMPLAINT**

SCR Joint Venture, L.P. (“SCR Joint Venture”), by and through its attorneys, Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., states as follows for its First Amended Complaint:

**I. INTRODUCTION**

1. SCR Joint Venture filed its original Complaint against M & M Holding, Inc., M&M Real Estate, LLC, Davis Trailer & Equipment, Inc. and Chester Mercer, seeking judgment and foreclosure against certain real and personal property. Subsequently, the foregoing parties voluntarily surrendered possession of the subject real property and portions of the subject personal property. SCR Joint Venture thereafter proceeded with notice and disposition or sale of the personal property surrendered to it, in accordance with Arkansas law. It now files this First Amended Complaint to supplement and amend the allegations of its original Complaint and add parties who may claim an interest in the subject real property. SCR Joint Venture adopts and incorporates its original Complaint to the extent not modified herein.

## II. PARTIES, JURISDICTION, AND VENUE

2. Plaintiff SCR Joint Venture, L.P., is a Delaware limited partnership with its principal place of business in Ohio. SCR Joint Venture is the holder of the loan documents referenced below.

3. Defendant M & M Holding, Inc. (“M & M Holding”) is an Arkansas corporation with its principal Arkansas office in Pulaski County.

3. Defendant M&M Real Estate, LLC (“M&M Real Estate”) is an Arkansas limited liability company with its principal Arkansas office in Pulaski County.

4. Defendant Davis Trailer & Equipment, Inc. (“Davis Trailer”) is an Arkansas corporation with its principal Arkansas office in Pulaski County.

5. Defendant ROC Funding Group LLC (“ROC”) is a New York limited liability company with this principal place of business in New York.

6. Upon information and belief, Defendants Harold Majors and Teresa Majors (the “Majors”) are husband and wife and individual residents of Pulaski County, Arkansas.

7. Defendant Complete Business Solutions Group, Inc. (“CBSGI”) is a Delaware corporation with its principal place of business in Pennsylvania.

8. Defendant Debra Buckner is Tax Collector for Pulaski County, Arkansas. She is named as a party in her official capacity only.

9. Defendant Tommy Land is Commissioner of State Lands for the State of Arkansas. He is named as a party in his official capacity only.

10. Defendant State of Arkansas Department of Finance and Administration is a department of the State of Arkansas.



11. This Court has subject matter jurisdiction over this proceeding, *in personam* jurisdiction over the parties and *in rem* jurisdiction over the real and personal property at issue.

12. Venue is proper in this Court pursuant to Ark. Code Ann. § 16-60-102(3), or otherwise under Arkansas law.

## II. FACTUAL ALLEGATIONS

13. On September 17, 2010, for value received, Defendant M & M Holding, Defendant M&M Real Estate, Defendant Davis Trailer and the Majors executed and delivered to Non-Party Delta Trust & Bank a Secured Promissory Note (7841315) in the amount of \$1,795,000.00 (“Note 1”). A true and correct copy of Note 1 is attached and included as part of **Exhibit A** and incorporated by reference.

14. The original annual interest rate on Note 1 was 5.0%.

15. The original maturity date on Note 1 was September 17, 2011.

16. On September 17, 2010, Defendant M & M Holding, Defendant M&M Real Estate, Defendant Davis Trailer and the Majors executed and delivered to Non-Party Delta Trust & Bank a Secured Open-End Line of Credit Promissory Note (7831955) in the amount of \$1,100,000.00 (“Note 2”). A true and correct copy of a Lost Note Affidavit and Agreement, which includes a true and complete copy of Note 2, is attached and included as part of **Exhibit B** and incorporated by reference.

17. The original annual interest rate on Note 2 was 5.0%.

18. The original maturity date on Note 2 was September 17, 2011.

19. From time to time, including into 2019, the terms of Notes 1 and 2 were modified by certain agreements, including forbearance agreements and change in terms agreements, executed by the parties to the applicable documents.

20. By a certain Change in Terms Agreement dated November 21, 2012, Non-Party Delta Trust & Bank, Defendant M & M Holding, Defendant M&M Real Estate, Defendant Davis Trailer, Chester Mercer (Mercer) and the Majors agreed to release the Majors from their obligations under Notes 1 and 2 (and all subsequent agreements related thereto), and to substitute Mercer as both an additional borrower on Notes 1 and 2 and a guarantor of Notes 1 and 2. A true and correct copy of the November 21, 2012 Change in Terms Agreement to this effect is attached as **Exhibit C** and incorporated by reference.

21. Pursuant to **Exhibit C** or otherwise, the current obligors on Notes 1 and 2 (and all subsequent modifications, extensions and agreements related thereto) are Defendants M & M Holding, M&M Real Estate, Davis Trailer and Mercer.

22. On October 31, 2023, Mercer filed a petition for relief under Chapter 7 of the United States Bankruptcy Code. *See In re Chester D. Mercer*, United States Bankruptcy Court, Eastern District of Arkansas, Case No. 4:23-bk-13408. SCR Joint Venture acknowledges the automatic stay resulting from Mercer's bankruptcy petition and seeks no further pleading or relief from him in this proceeding.

23. By merger with Delta Trust & Bank, the original obligee on Notes 1 and 2, Simmons First National Bank (SFNB) acquired all right, title, and interest in Notes 1 and 2.

24. Thereafter, Simmons Bank, by virtue of conversion from SFNB, acquired all right, title, and interest in Notes 1 and 2.

25. Through subsequent allonges, transfers, agreements and/or bills of sale, all right, title, and interest in Notes 1 and 2, inclusive of interim loans or loan obligations for taxes and protective advances, was demised and delivered first to Commercial Loan Investment X, LLC, and then from Commercial Loan Investment X, LLC to Plaintiff SCR Joint Venture. True and

correct copies of transfer documents are attached to or included in **Exhibits A and B** and incorporated by reference.

26. In 2015, 2017, 2018 and 2019, M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment, Inc. executed Forbearance Agreements with Commercial Loan Investment X, LLC, acknowledging and admitting the balances due on the foregoing indebtednesses, as combined, and agreeing to make specified payments thereon. Payments were thereafter made to Commercial Loan Investment X, LLC and to Plaintiff SCR Joint Venture, after it acquired the loans, with the last payment to Plaintiff being in July 2022.

27. Plaintiff SCR Joint Venture is currently the holder of Notes 1 and 2 (and all subsequent modifications, agreements or evidence of indebtedness related thereto).

28. Throughout the foregoing periods of time, holders of the subject loans have made protective advances as per the loan documents and agreements, with such amounts added, consolidated or recapitalized into or with the original underlying indebtedness.

29. To secure repayment of Notes 1 and 2, Defendant M&M Real Estate executed, acknowledged, and delivered a Mortgage, Security Agreement and Assignment of Rents dated September 17, 2010 (“MSA”).

30. The MSA encumbers the following described real property located in Pulaski County, Arkansas:

PARCEL 1 - Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West long said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.

PARCEL 2 - Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway, known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10495 and 96-10496, records of Pulaski County, Arkansas.

PARCEL 3 - Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds east 5.0 feet to the point of beginning.

31. The above-described property is hereinafter referred to as the "Real Property."
32. A true and correct copy of the MSA is attached as **Exhibit D** and incorporated by reference.
33. The MSA was filed for record in the Office of the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas on September 22, 2010 as Instrument No. 2010058473.
34. As the terms of Notes 1 and 2 were modified from time to time, likewise certain Modifications of Mortgage agreements were executed and filed of record. A Modification of Mortgage dated September 17, 2011 is attached as **Exhibit E** and incorporated by reference. The

Modification of Mortgage was filed of record in the Office of the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas on October 6, 2011 as Instrument No. 2011059249. Another Modification of Mortgage dated August 25, 2014 is attached as **Exhibit F** and incorporated by reference. The August 25, 2014 Modification of Mortgage was filed of record in the Office of the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas on October 20, 2014 as Instrument No. 2014061685. Another Modification of Mortgage dated November 2, 2015 is attached as **Exhibit G** and incorporated by reference. The November 2, 2015 Modification of Mortgage was filed of record in the Office of the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas on December 7, 2015 as Instrument No. 2015076221.

35. As all right, title, and interest in and to the promissory notes and loan obligations were transferred, the MSA and its subsequent modifications were transferred, including to or ending with Plaintiff SCR Joint Venture. True and correct copies of the relevant transfers and assignments were filed of record in the Office of the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas and are attached as **Exhibits H and I** and incorporated by reference.

36. The MSA (including subsequent modifications) constitutes a valid first-priority lien on the Real Property.

37. In addition to encumbering the Real Property, the MSA granted the holder thereof a security interest in the following fixtures and personal property:

**All machinery, equipment, fixtures (including, but not limited to all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), goods, inventory, deposit accounts, computer software, general intangibles, payment intangibles, building materials and supplies, inventory and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now and hereafter located upon the Land, the Easements, or the Improvements, or appurtenant thereto, used or created in connection with the present or future operation and occupancy of the Land, the Easements, and the Improvements owned**

**by Mortgagor (collectively, the “Personal Property”), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Arkansas Uniform Commercial Code, as applicable, and all proceeds and products of the above.**

38. Repayment was further secured by a separate Pledge and Security Agreement dated September 17, 2010 (“PSA”), a copy of which is attached as **Exhibit J** and incorporated by reference.

39. The PSA granted the holder thereof a security interest in the following described property:



1. All personal property of whatever nature which is owned by Debtor, including, without limitation, all furnishings, fixtures, equipment, inventory, goods, accounts receivable, deposit accounts, cash accounts, proceeds, cash proceeds, collateral, chattel paper, health-care-insurance receivables, electronic chattel paper, manufactured homes, non-cash proceeds, software, tangible chattel paper, payment intangibles and general intangibles, as said terms are, when applicable, defined in the Arkansas Code Annotated;

2. All payment intangibles, including without limitation, all fees, income, rents, issues, profits, earnings, receipts, royalties and revenues which may accrue from the ownership and/or operation of that real and personal property which is owned and operated by Debtor;

3. Debtor's rights under all instruments, including without limitation, all insurance policies covering all real and personal property owned by Debtor along with all proceeds, loss payments, and premium refunds payable regarding same;

4. All electricity, gas, water and other utility rights of whatever nature relating to all property owned by Debtor;

5. All general intangibles, including without limitation:

a. causes of action, claims, compensation, and recoveries for any damage to, destruction of, or condemnation or taking of any real or personal property owned by Debtor, or for any conveyance in lieu thereof, whether direct or consequential, or for any damage or injury to any personal or real property owned by Debtor, or for any loss or diminution in value of any such property;

b. all leases and other agreements of every nature that accrue to Debtor or in which Debtor may have a pecuniary, operating, access or use right of every nature owned by the Debtor and all proceeds relating to the same; and

c. all refunds, rebates or credits associated with adjustments to real or personal property taxes and assessments charged against or allocable to all real or personal property owned by the Debtor;

d. any and all rights, powers, privileges, options and other benefits under and any proceeds payable pursuant to any management contract pertaining to the operation, administration and management of any and all real and/or personal property owned and operated by Debtor;

e. all service contracts, maintenance contracts and other contracts or agreements of every nature which effect or pertain to the administration, operation or management of any or all real and/or personal property owned by Debtor;

f. all construction contracts, construction inspection and management contracts and architectural contracts pertaining to the construction of any and all improvements owned or to be constructed by Debtor;

g. all governmental permits or licenses of every nature which pertain to the operation, management and administration of all personal and/or real property owned by Debtor including, without limitation, all certificates of authority, certificates of occupancy and related and unrelated certificates and permits;

6. All computer software owned by Debtor; and

7. All amendments and supplements to and renewals and extensions of any and all of the foregoing, whether now existing or hereafter entered into and all replacements, substitutions, products and proceeds from any and all of the foregoing.

40. Together, the property pledged as collateral pursuant to the MSA and/or the PSA, as described in Paragraphs 37 and 39, is hereinafter referred to as the “Personal Property.”

41. Delta Trust & Bank perfected its security interest in the Personal Property by filing a Uniform Commercial Code (“UCC”) Financing Statement in the with the Arkansas Secretary of State. A true and correct copy of the UCC Financing Statement and subsequent continuations, amendments or assignments are attached as **Exhibit K** and incorporated by reference.

42. Through the foregoing amendments, assignments, and transfers, SCR Joint Venture acquired a perfected security interest in the Personal Property.

43. To further secure repayment of Notes 1 and 2, the MSA provides for an assignment of all right, title, and interest in and to all current and future leases and rents. The MSA expressly provides that “Mortgagor intends this assignment as a present, absolute assignment and not an assignment for additional security only.” See **Exhibit D** at Page 4, Paragraph 2.

44. While the MSA provided for an assignment of all current and future leases and rents, M&M Real Estate executed, acknowledged, and delivered a separate Absolute Assignment



of Leases and Rents, which assigned and transferred all right, title, and interest in, to, and under all leases, contracts, agreements, permits, and rents associated with M&M Real Estate's operation and ownership of the Real Property. A true and correct copy of the Absolute Assignment of Leases and Rents is attached as **Exhibit L** and incorporated by reference.

45. By subsequent assignments, SCR Joint Venture acquired all right, title, and interest in and to the Absolute Assignment of Leases and Rents. True and correct copies of the relevant assignments are attached as **Exhibits M and N** and incorporated by reference.

46. Accordingly, any and all leases, contracts, agreements, permits, and rents have been absolutely and presently assigned to SCR Joint Venture.

47. The obligors made payments on their loan obligations, inclusive of Notes 1 and 2, to the various holders thereof, including Plaintiff SCR Joint Venture. However, they have been and are now in default of their obligations, having failed to make payments as agreed or in accordance with various forbearance agreements and/or extensions.

48. Notes 1 and 2 have not been paid when due and have been and are in default.

49. SCR Joint Venture's right to foreclosure upon the Real Property, to take possession of and sell the Personal Property, and to receive all leases, contracts, agreements, permits, and rents associated with the Real Property has been and is absolute.

50. As indicated, the obligors, through their counsel herein, voluntarily surrendered the Real Property and portions of the Personal Property to SCR Joint Venture. After providing full and complete notice to all required recipients, in accordance with Ark. Code Ann. § 4-9-611 and/or other applicable law, SCR Joint Venture disposed of or sold portions of the Personal Property at public sale, in accordance with Ark. Code Ann. § 4-9-601 et seq. and/or other applicable law.

Pursuant to Ark. Code Ann. § 4-9-604 and/or other applicable law, SCR Joint Venture now seeks to foreclose upon the Real Property.

51. After allowing all credits, there is \$1,225,652.73 due and owing on Note 1, as of November 30, 2023, with interest continuing to accrue at a rate of \$267.39 per diem.

52. After allowing all credits, there is \$1,572,838.48 due and owing on Note 2, as of November 30, 2023, with interest continuing to accrue at a rate of \$371.68 per diem.

53. The MSA and the subsequent modifications contain a waiver of, including but not limited to, all rights of dower, curtesy, appraisement, sale, redemption and homestead.

54. The loan documents expressly provide for the collection of reasonable attorneys' fees in the event that the loan is placed in the hands of an attorney for collection, with those attorneys' fees secured by the related real estate and personal property.

55. Any interest any Defendant might have in the Real Property (including, but not limited to, any dower or curtesy right) is inferior and subordinate to the interest of SCR Joint Venture and should be foreclosed herein. Because Notes 1 and 2 are in default, the Real Property, and all attached fixtures, should be sold at foreclosure sale.

56. Defendants ROC, the Majors, CBSGI, the Tax Collector, the Land Commissioner and ADFA may claim an interest in the Real Property by virtue of mortgages, liens, certificates of indebtedness, judgments or other documents and instruments. Any interest they may have in the Real Property is inferior to the interest of SCR Joint Venture by virtue of its prior mortgage.

57. All conditions precedent to foreclosure of SCR Joint Venture's mortgage and liens have occurred or been satisfied, or they have been waived or abrogated.

WHEREFORE, SCR Joint Venture prays that the Court award it the following relief:

A.

Judgment against Defendants M & M Holding, M&M Real Estate, Davis Trailer, the Real Property, and any remaining Personal Property, jointly and severally, in the amount of \$1,225,652.73 on Note 1 as of November 30, 2023, with interest continuing to accrue at a rate of \$267.39 per diem until judgment is entered, and in the amount of \$1,572,838.48 on Note 2 as of November 30, 2023, with interest continuing to accrue at a rate of \$371.68 per diem until judgment is entered, for a total judgment amount on all promissory notes in the amount of \$2,798,491.21 as of November 30, 2023, with pre-judgment interest continuing to accrue at the variable *per diem* rate set forth above for each note until judgment entered and post-judgment interest thereafter at the maximum allowable rate until judgment paid, reasonable attorneys' fees, and all other additional costs incurred *pendente lite*, specifically including, but not limited to, the costs of a supplemental abstract and reimbursement for advances for property taxes, insurance, and preservation, with the total of these expenses being secured by the Real Property and any remaining Personal Property.

B.

That SCR Joint Venture be declared to have, by virtue of the mortgages referenced herein, a first-priority lien on the Real Property that is superior to the interest of any other party, and that SCR Joint Venture be declared to have a first-priority lien on any remaining Personal Property that is superior to the interest of any party.

C.

That the Court order M & M Holding, Inc., M&M Real Estate, LLC, Davis Trailer & Equipment, Inc. to pay to SCR Joint Venture any and all rents and other proceeds due and owing to them.

D.

That Real Property be sold at a foreclosure sale, and any remaining Personal Property be disposed of in accordance with the loan documents and Arkansas law, with the proceeds of such sales being applied to the amounts requested herein by SCR Joint Venture, and the excess, if any, paid to others as their interest may appear, under appropriate court order, with such foreclosure constituting a perpetual bar to all right, title, interest, equity, estate, and legal or equitable right to redeem of M & M Holding, Inc., M&M Real Estate, LLC, Davis Trailer & Equipment, Inc. or any other Defendant

E.

That the Clerk of Pulaski County be appointed Commissioner to make this sale.

F.

That the purchaser of the Real Property be decreed to have a right to immediate possession thereof and be given a Writ of Assistance to be executed by the Clerk of this Court to enforce delivery of possession.

G.

That, in the event the sale of the Real Property and any remaining Personal Property is not sufficient to satisfy the judgment amount prayed for, the Court determine the net judgment to be entered, and authorize judgment and execution thereon; and SCR Joint Venture should be entitled

to a deficiency judgment against M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment, Inc. for any and all amounts remaining.

H.

For an Order for Delivery to be entered as to M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment, Inc., or any other party (other than Mercer) who wrongfully maintains possession of any remaining Personal Property, requiring the Sheriff of Pulaski County, or any other applicable county within the state of Arkansas where any remaining Personal Property is located, to immediately take any remaining Personal Property and deliver possession of it to SCR Joint Venture or its designated agent.

H.

For any and all other relief to which SCR Joint Venture is entitled.

Respectfully submitted,

MITCHELL, WILLIAMS, SELIG,  
GATES & WOODYARD, P.L.L.C.  
425 West Capitol Avenue, Suite 1800  
Little Rock, Arkansas 72201  
870-938-6255  
jtalbot@mwlaw.com

By /s/ John P. Talbot  
John P. Talbot (Ark. Bar No. 97119)  
*Attorneys for SCR Joint Venture, L.P.*

**CERTIFICATE OF SERVICE**

I certify that on December 8th, 2023, I electronically filed the foregoing pleading with the Clerk of the Court using the Arkansas Judiciary Electronic Filing System, which shall send notification of such filing to counsel of record:

J. Brad Moore  
Wetzel & Moore, P.A.  
212 Center Street, 10<sup>th</sup> Floor  
Little Rock, Arkansas 72201

/s/ John P. Talbot  
John P. Talbot

1315

**SECURED PROMISSORY NOTE**

\$1,795,000

September 17, 2010

FOR VALUE RECEIVED, M & M HOLDING, INC., M&M REAL ESTATE, LLC, HAROLD MAJORS, TERESA MAJORS and DAVIS TRAILER & EQUIPMENT, INC. (collectively, the "Borrower"), do hereby jointly and severally covenant and promise to pay to the order of DELTA TRUST & BANK ("Lender"), or its successors or assigns, at Lender's office at 16600 Chenal Parkway, Little Rock, Arkansas 72223, or at such other place as the Lender may designate to the Borrower in writing from time to time, in legal tender of the United States, the sum of One Million, Seven Hundred and Ninety-five Thousand and No/100 Dollars (\$1,795,000) along with interest at the Interest Rate as provided herein. The credit relationship evidenced hereby shall be non-revolving in nature.

1. Definitions. As used throughout this Promissory Note, the following capitalized terms shall have the following meanings:

"Credit Agreement" shall collectively mean this Promissory Note; that Mortgage, Security Agreement and Assignment of Rents; that Absolute Assignment of Leases and Rents; that Indemnification Agreement; that Pledge and Security Agreement and that Secured Loan Agreement, all of even date herewith and all executed by Borrower in favor of Lender, and all other documents referenced therein or otherwise pertaining to this transaction.

"Event of Default" shall mean the Borrower's failure to pay when due any required payment of principal, interest or other sums due hereunder and a continuance thereof for ten (10) days or Borrower's failure to pay or perform any other condition or covenant of any nature as contained in the Credit Agreement and a continuance thereof for thirty (30) days after Borrower's receipt of written notice thereof or Borrower's failure to pay or perform any other condition or covenant of any nature as contained in any other agreement between Borrower and Lender and all cure periods provided therein have expired.

"Interest Rate" shall mean FIVE PERCENT (5.0%) per annum.

"Lender Expenses" means all costs or expenses of every nature which are incurred by Lender in connection with Lender's administration and servicing, defending or enforcing of the Credit Agreement, including, without limitation, all reasonable fees and expenses incurred by both Lender and its legal counsel in advising, structuring, drafting, reviewing, administering, amending, terminating, enforcing (including fees and expenses incurred by Lender and its legal counsel in connection with a "workout," a restructuring, or an insolvency proceedings concerning Borrower), irrespective of whether suit is brought.

"Maturity Date" shall mean that date which is TWELVE MONTHS (12) months from and after the date of this Promissory Note.

2. Principal Advances. All principal evidenced hereby shall be advanced by Lender to Borrower contemporaneously with Borrower's execution of this Promissory Note.

**EXHIBIT**  
**A**

3. Required Payments of Principal and Interest. Borrower shall pay this Promissory Note in full immediately upon demand. If no demand is made, Borrower shall pay interest and principal to Lender as follows:

(a) Principal and Interest Payments Prior to Maturity. Borrower shall pay to Lender on November 5, 2010 and on the 5<sup>th</sup> day of each month thereafter until the Maturity Date, \$11,846.21 or such other amount of equal installments of principal and interest, calculated at the Interest Rate and based upon the actual number of days elapsed at a daily rate based on a 360-day year, that will suffice to fully amortize the principal amount advanced hereunder over a period of twenty (20) years, it being recognized, understood and agreed that said sum shall be applied to Lender Expenses, interest and principal as provided in Section 3(c) below, and that said sum shall not necessarily result in the full amortization by the Maturity Date of all principal evidenced hereby. This calculation method will result in a higher effective interest rate than the numeric interest rate stated in this promissory note.

b. Payments Due at Maturity. If not previously paid, any and all unpaid principal and accrued but unpaid interest plus any other sums due hereunder shall be immediately due and payable on the Maturity Date. This Promissory Note is also subject to acceleration as set forth below.

c. Application of Payments Received by Lender. All payments received by Lender from Borrower hereunder shall be applied first to Lender Expenses, then to interest due hereunder, then to principal due hereunder, or, upon the occurrence and continuation of an Event of Default, at the option of the holder, to any other indebtedness owed by Borrower or its affiliates to Lender or its successor, assigns or affiliates.

4. Prepayment. Borrower may prepay all or any portion of this loan prior to maturity without penalty.

5. Default and Acceleration. This Promissory Note shall be payable in full and all of the principal, interest and Lender Expenses outstanding shall, at the option of Lender, immediately become accelerated and due and payable in full without notice, other than notices expressly required in the Credit Agreement, upon the occurrence of an Event of Default. Upon the occurrence of an Event of Default, the Borrower shall pay all Lender Expenses.

6. Default Interest. Upon the occurrence of an Event of Default and continuing until Lender acknowledges in writing that said Event of Default has been cured or waived, all principal and interest owing and outstanding under this Promissory Note or otherwise shall immediately begin bearing interest until paid in full at a rate equal to the lesser of (a) 12% or (b) the maximum rate of interest which Lender may by law charge and collect.

7. Late Fees. Borrower shall pay to Lender a late payment fee equal to 10% of the delinquent amount; provided that such late payment fee shall not be less than \$50, nor more than \$500, per delinquency should any installment due hereunder not be paid within ten days after the due



date, it being understood that such fee shall reimburse Lender for administrative, servicing, collection and other costs incurred as a result of said delinquency. Payments received hereunder after Lender's cut-off time, as determined by Lender from time to time, or on weekends or holidays will be credited as of the next business day.

8. Security and Collateral for Repayment. This Promissory Note is secured by the Credit Agreement of even date herewith in favor of Lender, and all other collateral which may be more fully described in those other collateral and security documents executed in connection with this transaction.

9. Usury. Borrower acknowledges that it has agreed to pay interest on the principal balance outstanding hereunder at the Interest Rate. The Lender does not intend to violate any applicable usury laws. Accordingly, all agreements between Borrower and Lender are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance hereof, or otherwise, shall the amount paid or agreed to be paid to the Lender hereunder exceed the maximum rate allowed by applicable law. If, from any circumstances whatsoever, fulfillment and payment of Borrower's obligations, at the time performance of such obligation shall be due, shall cause the effective rate of interest upon the sums evidenced hereby to exceed the maximum rate of interest allowed by applicable law, then, the obligation to be fulfilled shall be reduced automatically to the extent necessary to prevent that effective rate of interest from exceeding the maximum rate allowable under applicable law and to the extent that the Lender shall receive any sum which would constitute excessive interest, such sum shall be applied to the reduction of the unpaid principal balance due hereunder and not to the payment of interest; or, if such excessive interest exceeds the unpaid balance of principal, the excess shall be refunded to Borrower. This provision shall control every other provision of all agreements between Borrower and the Lender including, without limitation, the Credit Agreements.

10. Waivers. All parties to this Promissory Note, whether Borrower, principal, surety, guarantor, endorser, or any other party, hereby waive presentment for payment, demand, protest, notice of protest, notice of non-payment, and notice of dishonor, impairment of recourse and impairment of security. The failure of the holder of this Promissory Note to exercise any right hereunder shall not preclude the holder from exercising any other right which the holder may be entitled to exercise upon the happening of such event and the failure to exercise any right hereunder which the holder may be entitled to exercise shall not constitute a waiver of the right to exercise said right or any other right upon the subsequent occurrence of any such event nor shall any waiver by the Lender of any such right or rights on any one occasion be deemed a bar to or waiver of the same right or rights on any future occasion. All endorsers, guarantors, sureties or other persons who may now or hereafter be liable for the payment of this Promissory Note, by endorsing, guaranteeing or assuming this Promissory Note, consent to all of the terms and conditions herein contained and agree that this Promissory Note may be modified, extended or renewed in whole or in part, without notice, including (a) the impairment, substitution, exchange or release at any time or times of all or any part of any security or collateral security now or hereafter furnished, (b) the release of, or the impairment of the right of recourse against Borrower or any endorser, guarantor, surety or any other person now or hereafter liable hereon, (c) the substitution of, renewal or extension of this Promissory Note, (d)

the modification of any terms hereof, or other agreement now or hereafter given in connection with or as security for this Promissory Note, and (e) any change in the rate of interest, if any, hereon or the imposition of any fees whether authorized under this Promissory Note, or any note, mortgage, security agreement, loan agreement, or any other agreement now or hereafter given in connection with or as security for this Promissory Note.

11. No Modifications. This Promissory Note may not be changed, modified or amended orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

12. Choice of Laws. This Promissory Note is to be construed and enforced in accordance with the laws of the State of Arkansas and applicable federal law. In the event of any dispute concerning the interpretation, application or enforcement of this Promissory Note, or any other document executed in connection herewith, the sole and exclusive venue for same shall be the Circuit Court in and for the County of Pulaski, State of Arkansas. Borrower hereby consents to the jurisdiction of said Court. The Lender and the Borrower understand, acknowledge and agree the Promissory Note is governed by the laws of the State of Arkansas and applicable federal law, including, without limitation, the provisions of federal law which relate to the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges allowed, including, without limitation, Section 731 of the Gramm-Leach-Bliley Financial Modernization Act of 1999 as codified at 12 U.S.C. § 1831u.

13. Severability. In the event that any one or more of the provisions contained in this Promissory Note or in any other loan document executed in connection herewith shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Promissory Note or any other loan document executed in connection herewith, and in lieu of such invalid, illegal or unenforceable provision there shall be added automatically as part of this Promissory Note a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable thereafter.

14. Binding Effect. This Promissory Note and all covenants, promises and agreements contained herein or associated herewith shall be binding upon and inure to the benefit of the respective legal representatives, personal representatives, devisees, heirs, successors and assigns of the Lender and the Borrower. The term "Lender" shall be deemed to mean the holder of this Promissory Note from time to time.

15. No Joint Venture. Borrower recognizes and agrees that the relationship between Lender and Borrower shall be strictly construed as a relationship between a debtor and a secured party and never as a joint venture or similar relationship between Lender and Borrower. Lender shall not be obligated to perform or discharge any obligation or duty of Borrower with respect to (a) the operation of the mortgaged property or (b) the performance of any obligations under any leases affecting the mortgaged property. Borrower covenants and agrees to hold harmless, defend and indemnify the Lender from and any liability arising with respect to (a) Borrower's operation of the

mortgaged property or (b) Borrower's performance of any of its covenants or obligations under any of the leases pertaining to the mortgaged property.

16. Multiple Borrowers. Each and every entity or individual executing this Promissory Note recognizes and agrees that they shall be jointly and severally responsible, as described herein, for all financial or other obligations of whatever nature evidenced hereby or under any other document executed by and between Borrower and Lender.

17. JURY WAIVER. BORROWER HEREBY WAIVES BORROWER'S RIGHT TO A JURY TRIAL IN THE EVENT OF ANY DISPUTE OR LITIGATION ARISING HEREUNDER OR UNDER ANY RELATED DOCUMENTS EXECUTED IN CONNECTION HEREWITH. BORROWER COVENANTS AND AGREES THAT THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE FOR ALL LITIGATION ARISING IN CONNECTION WITH THE ENFORCEMENT, COLLECTION OR ADMINISTRATION OF THIS PROMISSORY NOTE SHALL REST EXCLUSIVELY IN PULASKI COUNTY, ARKANSAS, AND BORROWER WAIVES ALL RIGHTS TO ASSERT OTHERWISE.

*[This Space Intentionally Left Blank; Signatures to Follow]*

[Secured Term Promissory Note Signature Page]

IN WITNESS WHEREOF, this Secured Term Promissory Note has been executed as of the date set forth in the preface.

BORROWER:

M & M Holding, Inc.

By: HW. Majors  
Title: President

Davis Trailer & Equipment, Inc.

By: HW. Majors  
Title: President

M&M Real Estate, LLC

By: HW. Majors  
Title: Manager

HW. Majors  
Harold Majors

Teresa Majors  
Teresa Majors


Allonge

Reference is made to the \$1,795,000.00 promissory note dated September 17, 2010 from M & M HOLDING, INC., M&M REAL ESTATE, LLC, HAROLD MAJORS, TERESA MAJORS AND DAVIS TRAILER & EQUIPMENT, INC. (the "Note") payable to the order of SIMMONS BANK ("Assignor"), as successor by conversion to SIMMONS FIRST NATIONAL BANK as successor by merger to DELTA TRUST & BANK. It is intended that this Allonge be attached to and made a permanent part of the Note.

Pay to the order of COMMERCIAL LOAN INVESTMENT X, LLC ("Assignee"), without recourse, representations or warranties of any kind, express, implied or imposed by law.

Executed this 8<sup>th</sup> day of June, 2017.

SIMMONS BANK

By:   
Name: Charles Brown  
Title: SVP, Credit Administration

**ALLONGE**

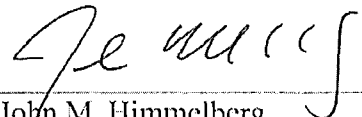
This ALLONGE is affixed to and made a part of that certain Secured Promissory Note dated September 17, 2010, made by M & M Holding, Inc., M&M Real Estate, LLC, Harold Majors, Teresa Majors and Davis Trailer & Equipment, Inc., in favor of Delta Trust & Bank, in the face principal amount of \$1,795,000.00, as such evidence of indebtedness has been amended, modified, supplemented, renewed, endorsed, negotiated, sold, assigned, conveyed or otherwise transferred to date.

**PAY TO THE ORDER OF SCR Joint Venture, L.P.**

Without recourse, representation or warranty whatsoever, whether express or implied.

Dated as of December 27, 2019

Commercial Loan Investment X, LLC

By:   
John M. Himmelberg  
Authorized Representative

(29011-01)

### LOST NOTE AFFIDAVIT AND AGREEMENT

Reference is made to that certain \$1,100,000.00 Secured Open-End Line of Credit Promissory Note dated September 17, 2010 (the "Note") made by M & M HOLDING, INC., M&M REAL ESTATE, LLC, HAROLD MAJORS, TERESA MAJORS AND DAVIS TRAILER & EQUIPMENT, INC. (the "Note"), payable to the order of SIMMONS BANK ("Holder"), as successor by conversion to SIMMONS FIRST NATIONAL BANK, as successor by merger to DELTA TRUST & BANK.

Reference is further made to that certain Loan Purchase & Sale Agreement dated May 17, 2017 ("**Agreement**") by and among Holder and COMMERCIAL LOAN INVESTMENT X, LLC ("**Purchaser**").

Upon execution and delivery of the Agreement, Holder is required to provide the original Note to Purchaser. After review of its files, the Holder cannot locate the original Note, and therefore cannot deliver the original Note to Purchaser. Accordingly, the Holder has agreed to provide, and Purchaser has agreed to accept, this Lost Note Affidavit and Agreement in lieu thereof.

Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Holder and Purchaser acknowledge, confirm, and agree as follows:

1. The Holder represents and warrants that: (a) the Holder has made a diligent search for the Note; (b) the Holder has not located the Note; (c) the Holder has lost or misplaced the Note; and (d) the Holder has no knowledge as to the current location of the Note. The Holder further represents and warrants that the attached Exhibit "A" hereto is a true and complete copy of the Note.
2. The Holder represents and warrants that the Holder has not previously sold, assigned, negotiated, endorsed, transferred, pledged, or otherwise conveyed the Note to any other person or entity.
3. The Holder acknowledges confirms and agrees that if, at any time subsequent to the execution of this Lost Note Affidavit and Agreement, the Holder locates the original Note, the Holder shall immediately deliver same to Purchaser.
4. The Holder shall indemnify and hold harmless Purchaser from and against any and all liabilities, losses, damages, claims, costs, expenses, interest, awards, judgments and penalties (including, without limitation, legal costs and expenses) suffered or incurred by Purchaser arising out of or resulting from the breach of any representation or warranty by the Holder contained herein.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS*

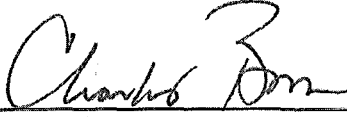
27011-02

<b>EXHIBIT</b>
<b>B</b>

WHEREFORE, this Lost Note Affidavit and Agreement shall take effect as a sealed instrument as of the 8<sup>th</sup> day of June, 2017.

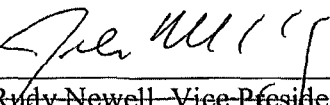
**HOLDER:**

SIMMONS BANK

By:   
Name: Charles Brown  
Title: SVP Credit Administration

**PURCHASER:**

COMMERCIAL LOAN INVESTMENT X, LLC

By:   
~~Rudy Newell, Vice President~~  
John M. Himmelhaerz  
Authorized Representative



1955  
line

SECURED OPEN-END LINE OF CREDIT PROMISSORY NOTE

\$1,100,000

September 17, 2010

FOR VALUE RECEIVED, M & M HOLDING, INC., M&M REAL ESTATE, LLC, HAROLD MAJORS, TERESA MAJORS and DAVIS TRAILER & EQUIPMENT, INC. (collectively, the "Borrower"), do hereby jointly and severally covenant and promise to pay to the order of DELTA TRUST & BANK ("Lender"), or its successors or assigns, at Lender's office at 16600 Chenal Parkway, Little Rock, Arkansas 72223, or at such other place as the Lender may designate to the Borrower in writing from time to time, in legal tender of the United States, the sum of One Million, One Hundred Thousand and No/100 Dollars (\$1,100,000) along with interest at the Interest Rate as provided herein. The credit relationship evidenced hereby shall be revolving in nature.

1. Definitions. As used throughout this Promissory Note, the following capitalized terms shall have the following meanings:

"Credit Agreement" shall collectively mean this Promissory Note; that Pledge and Security Agreement; that Mortgage, Security Agreement and Assignment of Rents executed by Harold and Teresa Majors, and that Secured Open-End Line of Credit Loan Agreement, all executed by Borrower in favor of Lender of even date herewith, and all other documents referenced therein or otherwise pertaining to this transaction.

"Event of Default" shall mean the Borrower's failure to pay when due any required payment of principal, interest or other sums due hereunder and a continuance thereof for ten (10) days or Borrower's failure to pay or perform any other condition or covenant of any nature as contained in the Credit Agreement and a continuance thereof for thirty (30) days after Borrower's receipt of written notice thereof or Borrower's failure to pay or perform any other condition or covenant of any nature as contained in any other agreement between Borrower and Lender and all cure periods provided therein have expired.

"Interest Rate" shall mean FIVE PERCENT (5.0%) per annum.

"Lender Expenses" shall mean all costs or expenses of every nature which are incurred by Lender in connection with Lender's administration and servicing, defending or enforcing of the Credit Agreement, including, without limitation, all reasonable fees and expenses incurred by both Lender and its legal counsel; in advising, structuring, drafting, reviewing, administering, amending, terminating, enforcing (including fees and expenses incurred by Lender and its legal counsel in connection with a "workout," a restructuring, or an insolvency proceedings concerning Borrower), irrespective of whether suit is brought.

"Maturity Date" shall mean that date which is TWELVE (12) months from and after the date of this Promissory Note.

2. Principal Advances. Borrower shall be entitled to receive advances of principal hereunder upon Borrower's compliance with and satisfaction of those conditions precedent to such advances as are set forth in that Secured Open-End Line of Credit Loan Agreement of even date

Exhibit "A"

herewith. Borrower may (a) request advances of principal hereunder, and (b) borrow, repay and re-borrow principal evidenced hereby throughout the term of this relationship so long as the Borrowing Base is never exceeded, as that term is more fully defined in the Secured Open-End Line of Credit Loan Agreement of even date herewith.

3. Required Payments of Principal and Interest. Borrower shall pay this Promissory Note in full immediately upon Lender's demand. If no demand is made, Borrower shall pay interest and principal to Lender as follows:

a. Interest Payments Prior to Maturity. Borrower shall pay to Lender on November 5, 2010 and on the 5<sup>th</sup> day of each month thereafter until the Maturity Date, that amount interest, calculated at the Interest Rate and based upon the actual number of days elapsed at a daily rate based on a 360-day year, that has accrued against outstanding principal that has been advanced under this Promissory Note, it being recognized, understood and agreed that said sum shall be applied to Lender Expenses, interest and principal as provided in Section 3(c) below, and that said sum shall not necessarily result in the full amortization by the Maturity Date of all principal evidenced hereby. This calculation method will result in a higher effective interest rate than the numeric interest rate stated in this Promissory Note.

b. Payments Due at Maturity. If not previously paid, any and all unpaid principal and accrued but unpaid interest plus any other sums due hereunder shall be immediately due and payable on the Maturity Date. This Promissory Note is also subject to acceleration as set forth below.

c. Application of Payments Received by Lender. All payments received by Lender from Borrower hereunder shall be applied first to Lender Expenses, then to interest due hereunder, then to principal due hereunder, or, upon the occurrence and continuation of an Event of Default, at the option of the holder, to any other indebtedness owed by Borrower or its affiliates to Lender or its successor, assigns or affiliates.

4. Prepayment. Borrower may prepay all or any portion of this loan prior to maturity without a prepayment penalty.

5. Default and Acceleration. This Promissory Note shall be payable in full and all of the principal, interest and Lender Expenses outstanding shall, at the option of Lender, immediately become accelerated and due and payable in full without notice, demand or presentment upon the occurrence of an Event of Default. Upon the occurrence of an Event of Default, the Borrower shall pay all Lender Expenses.

6. Default Interest. Upon the occurrence of an Event of Default and continuing until Lender acknowledges in writing that said Event of Default has been cured or waived, all principal and interest owing and outstanding under this Promissory Note or otherwise shall immediately begin bearing interest until paid in full at a rate equal to the lesser of (a) 12% or (b) the maximum rate of interest which Lender may by law charge and collect.

7. Late Fees. Borrower shall pay to Lender a late payment fee equal to 10% of the delinquent amount; provided that such late payment fee shall not be less than \$50, nor more than \$500, per delinquency should any installment due hereunder not be paid within ten days after the due date, it being understood that such fee shall reimburse Lender for administrative, servicing, collection and other costs incurred as a result of said delinquency. Payments received hereunder after Lender's cut-off time, as determined by Lender from time to time, or on weekends or holidays will be credited as of the next business day.

8. Security and Collateral for Repayment. This Promissory Note is secured by the Credit Agreement of even date herewith in favor of Lender, and all other collateral which may be more fully described in those other collateral and security documents executed in connection with this transaction.

9. Usury. Borrower acknowledges that it has agreed to pay interest on the principal balance outstanding hereunder at the Interest Rate. The Lender does not intend to violate any applicable usury laws. Accordingly, all agreements between Borrower and Lender are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance hereof, or otherwise, shall the amount paid or agreed to be paid to the Lender hereunder exceed the maximum rate allowed by applicable law. If, from any circumstances whatsoever, fulfillment and payment of Borrower's obligations, at the time performance of such obligation shall be due, shall cause the effective rate of interest upon the sums evidenced hereby to exceed the maximum rate of interest allowed by applicable law, then, the obligation to be fulfilled shall be reduced automatically to the extent necessary to prevent that effective rate of interest from exceeding the maximum rate allowable under applicable law and to the extent that the Lender shall receive any sum which would constitute excessive interest, such sum shall be applied to the reduction of the unpaid principal balance due hereunder and not to the payment of interest; or, if such excessive interest exceeds the unpaid balance of principal, the excess shall be refunded to Borrower. This provision shall control every other provision of all agreements between Borrower and the Lender including, without limitation, the Credit Agreements.

10. Waivers. All parties to this Promissory Note, whether Borrower, principal, surety, guarantor, endorser, or any other party, hereby waive presentment for payment, demand, protest, notice of protest, notice of non-payment, and notice of dishonor, impairment of recourse and impairment of security. The failure of the holder of this Promissory Note to exercise any right hereunder shall not preclude the holder from exercising any other right which the holder may be entitled to exercise upon the happening of such event and the failure to exercise any right hereunder which the holder may be entitled to exercise shall not constitute a waiver of the right to exercise said right or any other right upon the subsequent occurrence of any such event nor shall any waiver by the Lender of any such right or rights on any one occasion be deemed a bar to or waiver of the same right or rights on any future occasion. All endorsers, guarantors, sureties or other persons who may now or hereafter be liable for the payment of this Promissory Note, by endorsing, guaranteeing or assuming this Promissory Note, consent to all of the terms and conditions herein contained and agree that this Promissory Note may be modified, extended or renewed in whole or in part, without notice, including (a) the impairment, substitution, exchange or release at any time or times of all or any part

of any security or collateral security now or hereafter furnished, (b) the release of, or the impairment of the right of recourse against Borrower or any endorser, guarantor, surety or any other person now or hereafter liable hereon, (c) the substitution of, renewal or extension of this Promissory Note, (d) the modification of any terms hereof, or other agreement now or hereafter given in connection with or as security for this Promissory Note, and (e) any change in the rate of interest, if any, hereon or the imposition of any fees whether authorized under this Promissory Note, or any note, mortgage, security agreement, loan agreement, or any other agreement now or hereafter given in connection with or as security for this Promissory Note.

11. No Modifications. This Promissory Note may not be changed, modified or amended orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

12. Choice of Laws. This Promissory Note is to be construed and enforced in accordance with the laws of the State of Arkansas and applicable federal law. In the event of any dispute concerning the interpretation, application or enforcement of this Promissory Note, or any other document executed in connection herewith, the sole and exclusive venue for same shall be the Circuit Court in and for the County of Pulaski, State of Arkansas. Borrower hereby consents to the jurisdiction of said Court. The Lender and the Borrower understand, acknowledge and agree the Promissory Note is governed by the laws of the State of Arkansas and applicable federal law, including, without limitation, the provisions of federal law which relate to the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges allowed, including, without limitation, Section 731 of the Gramm-Leach-Bliley Financial Modernization Act of 1999 as codified at 12 U.S.C. § 1831a.

13. Severability. In the event that any one or more of the provisions contained in this Promissory Note or in any other loan document executed in connection herewith shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Promissory Note or any other loan document executed in connection herewith, and in lieu of such invalid, illegal or unenforceable provision there shall be added automatically as part of this Promissory Note a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable thereafter.

14. Binding Effect. This Promissory Note and all covenants, promises and agreements contained herein or associated herewith shall be binding upon and inure to the benefit of the respective legal representatives, personal representatives, devisees, heirs, successors and assigns of the Lender and the Borrower. The term "Lender" shall be deemed to mean the holder of this Promissory Note from time to time.

15. No Joint Venture. Borrower recognizes and agrees that the relationship between Lender and Borrower shall be strictly construed as a relationship between a debtor and a secured party and never as a joint venture or similar relationship between Lender and Borrower. Lender shall not be obligated to perform or discharge any obligation or duty of Borrower with respect to (a) the operation of the mortgaged property or (b) the performance of any obligations under any leases

affecting the mortgaged property. Borrower covenants and agrees to hold harmless, defend and indemnify the Lender from and any liability arising with respect to (a) Borrower's operation of the mortgaged property or (b) Borrower's performance of any of its covenants or obligations under any of the leases pertaining to the mortgaged property.

16. Multiple Borrowers. Each and every entity or individual executing this Promissory Note recognizes and agrees that they shall be jointly and severally responsible, as described herein, for all financial or other obligations of whatever nature evidenced hereby or under any other document executed by and between Borrower and Lender.

17. JURY WAIVER. BORROWER HEREBY WAIVES BORROWER'S RIGHT TO A JURY TRIAL IN THE EVENT OF ANY DISPUTE OR LITIGATION ARISING HEREUNDER OR UNDER ANY RELATED DOCUMENTS EXECUTED IN CONNECTION HEREWITH. BORROWER COVENANTS AND AGREES THAT THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE FOR ALL LITIGATION ARISING IN CONNECTION WITH THE ENFORCEMENT, COLLECTION OR ADMINISTRATION OF THIS PROMISSORY NOTE SHALL REST EXCLUSIVELY IN PULASKI COUNTY, ARKANSAS, AND BORROWER WAIVES ALL RIGHTS TO ASSERT OTHERWISE.

*[This Space Intentionally Left Blank; Signatures to Follow]*

[Secured Open-End Promissory Note Signature Page]

IN WITNESS WHEREOF, this Secured Open-End Promissory Note has been executed as of the date set forth in the preface.

BORROWER:

M & M Holding, Inc.

By: [Signature]

Title: President

Davis Trailor & Equipment, Inc.

By: [Signature]

Title: President

M&M Real Estate, L.L.C.

By: [Signature]

Title: member

[Signature]

Harold Majors

[Signature]

Teresa Majors

0550

BILL OF SALE


Commercial Loan Investment X, LLC (the "Seller"), for value received and pursuant to the terms and conditions of that certain Asset Sale Agreement dated December 13, 2019, between the Seller and SCR Joint Venture, L.P. (the "Buyer"), does hereby sell, assign, transfer and convey to the Buyer, its heirs, administrators, representatives, successors and assigns, all rights, title and interests of the Seller, as of the date hereof, in, to and under the Loan(s) described in the Asset Sale Agreement.

THIS BILL OF SALE IS EXECUTED WITHOUT RECOURSE AND WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESSED, IMPLIED OR IMPOSED BY LAW, EXCEPT AS PROVIDED IN THE ASSET SALE AGREEMENT.

EXECUTED this 27th day of December 2019.

SELLER:

Commercial Loan Investment X, LLC

  
\_\_\_\_\_  
By: John M. Himmelberg  
Its: Authorized Representative

1955 ✓  
1315 ✓

**CHANGE IN TERMS AGREEMENT**

THIS CHANGE IN TERMS AGREEMENT ("Agreement") is dated as of the <sup>21<sup>st</sup></sup> ~~November~~ day of ~~November~~ 2012 and is executed by and among M & M HOLDING, INC. ("M&M"), M&M REAL ESTATE, LLC ("M&MRE"), HAROLD MAJORS ("HM"), TERESA MAJORS ("TM") and DAVIS TRAILER & EQUIPMENT, INC. ("DTE") (collectively, M&M, M&MRE, HM, TM and DTE are referred to herein as the "Old Borrower" and "HM" and "TM" are referred to herein collectively as "Old Guarantor"); M&M, M&MRE, DTE, and Chester Mercer (collectively, the "New Borrower"); CHESTER MERCER ("New Guarantor"); and DELTA TRUST & BANK ("Lender").

WHEREAS, on or about September 17, 2010, Old Borrower executed and delivered to Lender that certain \$1,100,000 Secured Open-End Line of Credit Promissory Note (the "Promissory Note 1"); Old Guarantor delivered that certain Unconditional Guaranty of Old Borrower's obligations under the terms of the Promissory Note 1 (the "Guaranty 1"), and Old Borrower delivered other documents related to the foregoing, referenced in the foregoing or otherwise applicable to the subject transaction (said documents, along with the Promissory Note 1, the Guaranty 1, and all documents describing or securing the obligations therein, including any and all prior amendments not specifically superseded hereby, being collectively referred to herein as the "Loan 1 Documents"); and

WHEREAS, on or about September 17, 2010, Old Borrower also executed and delivered to Lender that certain \$1,795,000 Secured Term Promissory Note (the "Promissory Note 2"); Old Guarantor delivered that certain Unconditional Guaranty of Old Borrower's obligations under the terms of the Promissory Note 2 (the "Guaranty 2"); Old Borrower delivered that certain Mortgage, Security Agreement and Assignment of Rents and that certain Absolute Assignments of Leases and Rents; Old Borrower delivered that certain Pledge and Security Agreement; and Old Borrower delivered other documents related to the foregoing, referenced in the foregoing or otherwise applicable to the subject transaction (said documents, along with the Promissory Note 2, the Guaranty 2, and all documents describing or securing the obligations therein, including any and all prior amendments not specifically superseded hereby, being collectively referred to herein as the "Loan 2 Documents") ("Loan 1 Documents" and "Loan 2 Documents" are referred to collectively herein as the "Loan Documents"); and

WHEREAS, pursuant to the executed Proposal between Old Borrower, New Borrower and Lender dated as of October 31, 2012 (the "Proposal") which is attached hereto as Exhibit A, Old Borrower, Old Guarantor and New Borrower have requested that the Lender release Old Guarantor's obligations under the Guaranty 1 and Guaranty 2, replace Old Borrower with New Borrower as Borrower under the Loan Documents and modify and amend the terms that are applicable to the Loan Documents, and the Lender is willing to accommodate Old Borrower, Old Guarantor, and New Borrower;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions that are referenced and exchanged herein, and for other good and valuable consideration, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

**EXHIBIT**  
**C**



1. Amendment of Borrower. The definition of "Borrower" and all other references set forth in the Loan Documents is hereby modified and amended to mean M & M HOLDING, INC., M&M REAL ESTATE, LLC, DAVIS TRAILER & EQUIPMENT, INC., and CHESTER MERCER.

2. Amendment of Guarantor. Pursuant to the new Guaranty executed by New Guarantor contemporaneously herewith, the definition of "Guarantor" and all other references set forth in the Loan Documents are hereby modified and amended to mean "Chester Mercer."

3. Release by Lender. Old Guarantor is hereby released from all obligations found within Guaranty 1 and Guaranty 2 and is released as Borrower under the Loan Documents.

4. Waiver and Release by HM and TM. In consideration of the waiver found in Section 3 herein, HM and TM hereby agree and acknowledge that they possess no claims, counterclaims, defenses or offset rights of any nature against Lender or its affiliates and hereby release and waive any unknown existing or future claims, counterclaims, defenses or offset rights of any nature against Lender in their entirety.

5. General Amendment. In addition, all other provisions of the Loan Documents are hereby modified and amended so as to be consistent with the amendments set forth herein.

6. Ratification and Reaffirmation of Debt. New Borrower and New Guarantor do each hereby certify, represent, warrant and affirm to Lender the following, it being understood that such certifications and representations constitute and comprise material assurances upon which Lender is basing its decision to provide the accommodations referenced herein:

a. New Borrower and New Guarantor hereby ratify, reaffirm, and assume all of Borrower's and Guarantor's financial and other obligations of every nature that are set forth and contained in the Loan Documents;

b. New Borrower and New Guarantor agree and acknowledge that all Loan Documents are legal, valid and binding financial obligations that are enforceable against New Borrower or New Guarantor as applicable, in accordance with their terms;

c. New Borrower and New Guarantor agree and acknowledge that they have no defenses to their payment and performance obligations that are set forth in the Loan Documents and that New Borrower's or New Guarantor's default under the Loan Documents will entitle Lender to receive, without contest by New Borrower or New Guarantor, a judgment against New Borrower and the right to foreclose, without contest by New Borrower or New Guarantor, its liens and security interests that are contained in the Loan Documents;

d. New Borrower and New Guarantor agree and acknowledge that they possess no claims, counterclaims, defenses or offset rights of any nature against Lender or its affiliates, including any that would prohibit the Lender from enforcing its rights and remedies under the Loan Documents and, to the extent such a claim, right or defense might exist, New Borrower and New Guarantor each hereby release and waive each claim, right or defense in its entirety;

e. New Borrower and New Guarantor acknowledge that the Lender has fully performed all of its obligations as set forth in the Loan Documents;

f. New Borrower and New Guarantor agree and acknowledge that the priority of the liens created by the Mortgages and the other Loan Documents in favor of the Lender to secure the performance of New Borrower's obligations under the Loan Documents shall not be disturbed or lost by the execution and performance of this Agreement;

g. New Borrower and New Guarantor agree and acknowledge that (i) Lender has not represented (either by express agreement, course of performance or otherwise) that it will agree to further modifications or amendments to the Loan Documents, including without limitation, renewals, extensions, rate reductions or changes in the repayment schedule; (ii) Lender has no obligation to make such further modifications or amendments; and (iii) in the formulation and execution of its business plan, New Borrower are not relying on the Lender agreeing to such modifications or amendments; and

h. No waiver by Lender of any default or breach by New Borrower or New Guarantor under the Loan Documents shall be implied from any omission by Lender to take, or any delay in taking, action on account of such default other than the default expressly made the subject of the waiver and any such express waiver shall be operative only for the time and to the extent therein stated. Any waiver of any covenant, term or condition contained in the Loan Documents shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by Lender to, or of, any act by New Borrower and New Guarantor shall not be deemed to waive or render unnecessary the consent or approval to, or of, any subsequent similar act.

7. Indemnification. To the fullest extent permitted by law, New Borrower, New Guarantor and Old Guarantor hereby agree to indemnify and hold harmless Lender, and Lender's officers, directors, shareholders, agents, attorneys and employees (collectively, "Indemnitee") from and against any and all out of pocket costs resulting from liability, loss, damage, costs or expense, including court costs and attorney's fees, that Indemnitee may hereafter suffer, incur, reasonably pay or in any manner be held liable for to third parties, by reason of any breach, default, misstatement or misrepresentation of any of the statements, warranties or representations of New Borrower or Old Guarantor contained in this Agreement, the Loan Documents, or any related agreement, or by reason of any breach or default by Old Guarantor or New Borrower, or any of New Borrower's employees, officers, affiliates or agents, in the performance of any duties, covenants or obligations arising under this or any related agreement. In this connection, but without limitation, New Borrower, New Guarantor and Old Guarantor hereby agree to reimburse any Indemnitee promptly upon demand for any payments made by such person to a third party with respect to any liability, damage, loss or claim to which the foregoing indemnity relates.

8. Miscellaneous. This Agreement, the Proposal and the Loan Documents constitute the entire understanding and agreement between the undersigned parties with respect to the transactions arising in connection with the loan transaction and supersede all prior written or oral understandings and agreements between the undersigned parties in connection therewith and

except for the modification specifically set forth herein the Loan Documents shall remain in full force and effect. Neither this Agreement, nor the Loan Documents may be orally modified but may be amended only by written agreements executed by the original parties to said documents. Jurisdiction and venue associated with the enforcement of Lender's rights and remedies hereunder and pursuant to the Loan Documents shall be vested solely and exclusively in an appropriate court of competent jurisdiction located in Pulaski County, Arkansas. Borrower waives Borrower's right to a jury trial of any issues arising in connection with the enforcement of this Agreement or the Loan Documents. It is expressly agreed and understood that this Agreement may be executed in multiple counterparts and with multiple signature pages and that all signature pages, when attached to and assembled with this document, shall constitute and comprise a single document that is enforceable against all parties on all signature pages in accordance with this Agreement's terms.

*[This Space Intentionally Left Blank; Signatures to Follow]*

[Signatures to Change In Terms Agreement]

THIS CHANGE IN TERMS AGREEMENT has been executed as of the date set forth in the preface.

LENDER:

Harold Majors  
Harold Majors, individually and as  
Old Guarantor and Old Borrower

Teresa Majors  
Teresa Majors, individually and as  
Old Guarantor and Old Borrower

Delta Trust & Bank

By: Carol Boneth  
Its Vice President

NEW BORROWER:

DAVIS TRAILER & EQUIPMENT, INC.

By: Chester Mercer  
Title: President

NEW GUARANTOR:

Chester Mercer  
Chester Mercer

M & M HOLDING, INC.

By: Chester D. Mercer  
Title: President

M&M REAL ESTATE, LLC

By: Chester D. Mercer  
Title: President

**EXHIBIT A**  
**PROPOSAL**

**Davis Trailer & Equipment, Inc.  
Proposal**

This PROPOSAL (the "Proposal") is submitted by Delta Trust & Bank ("Delta Trust") to Davis Trailer & Equipment, Inc. ("Davis Trailer"), M & M Holding, Inc. ("M & M Holding"), M & M Real Estate, LLC, Harold Majors and Teresa Majors ("Majors")(collectively, the "Borrowers") and Chet Mercer ("Mercer") as of the date stated below.

WHEREAS, on September 17, 2010, the Borrowers, for value received, executed, acknowledged and delivered to Delta Trust those loan documents (the "Loan Documents") evidencing and/or securing (a) that Secured Promissory Note in the principal amount of \$1,795,000.00 and that Secured Open-End Line of Credit Promissory Note in the principal amount of \$1,100,000.00 (the "Notes"); (b) that Mortgage, Security Agreement and Assignment of Rents securing the Notes and encumbering the property described therein; (c) those two Pledge and Security Agreements dated September 17, 2010 (the "Security Agreements"); (d) those two Secured Loan Agreements dated September 17, 2010 (the "Loan Agreements"); and (e) those UCC-1 Financing Statements dated September 17, 2010 (the "UCC's");

WHEREAS, the Borrowers subsequently failed to make the necessary payments under the Loan Documents and are in default thereunder;

WHEREAS, on February 28, 2012, Davis Trailer filed a Chapter 11 Bankruptcy in the U.S. Bankruptcy Court, Eastern District of Arkansas, Case No. 4:12-bk-11154;

WHEREAS, the total amount due from the Borrowers to Delta Trust as of October 18, 2012 is \$2,763,406.50 principal, \$148,532.20 accrued interest, which shall accrue at the rate of \$383.81 per diem;

WHEREAS, on May 4, 2012, an Agreed Order Authorizing Use of Cash Collateral was entered in the bankruptcy case which, in part, held that Delta Trust's lien on the assets of Davis Trailer was properly perfected, and required Davis Trailer to make monthly payments of \$16,429.54 to Delta Trust which represents the full regular, non-default, pre-petition monthly

principal and interest payment on both loans, and further stated that failure to make the necessary payments constitute "cause" justifying the lifting of the automatic stay;

WHEREAS, Davis Trailer failed to make the required payments for August, September and October, 2012;

WHEREAS, on September 25, 2012, Delta Trust filed a Motion for Appointment of Trustee or Examiner, or alternatively, Motion for Abandonment and Relief from Stay, and a hearing is currently scheduled on that Motion for October 29, 2012;

WHEREAS, during the course of the mandatory weekly meetings between Delta Trust, Harold Majors and Chet Mercer, a proposed settlement was developed by Harold Majors and Chet Mercer due to Mr. Majors' health and poor performance of Davis Trailer, which was mutually discussed by the parties, and this Proposal represents the end result of the proposed settlement and discussions between the parties; and

WHEREAS, the Borrowers, Mr. Mercer and their agents state that this Proposal is not the product of coercion or duress, that this Proposal is mutually beneficial to all parties, and does not establish a relationship of trust and confidence with Delta Trust which would impose additional responsibilities and/or duties upon Delta Trust.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitals. Each of the foregoing recitals is true and correct and incorporated into the terms of this Proposal.

2. Delta Trust's Obligations. Upon acceptance of the terms herein, and subsequent approval by the Bankruptcy Court, Delta Trust agrees as follows:

(a) Insurance.

(i) Workers' Compensation. Workers' compensation insurance premium payment for September 2012 is due and Delta Trust will force advance \$2,740.65 on Note # [REDACTED] 1955 M & M Holding Company, to keep the insurance in force. Another \$2,610.14 will be due for October, 2012 and if Davis Trailer cannot make this payment when due, Delta Trust will also force advance this

payment on Note # [REDACTED]1955. Upon payment, the workers' compensation policy will be paid to the end of the policy period, which is April 2013.

(ii) Property/Hazard/Casualty. Hartford Insurance Company's hazard insurance and insurance on the real estate is due for the August, September, and October 2012 payments. Delta Trust will attempt to work out a payment plan with the Hartford, and will force advance to the same note the amount of premium that is due immediately to keep the insurance in force. This offer is contingent on an acceptable plan by the Hartford.

(b) Personal Guaranty. Delta Trust will relieve Harold and Teresa Majors of their personal guarantees on Loan # [REDACTED]1955 and Loan # [REDACTED]1315.

(c) Delta Trust understands that Harold Majors may request, as part of this negotiation, for Davis Trailer and Equipment Company to pay off an outstanding debt of Mr. Majors in the approximate amount of \$56,000. However, Delta Trust will not agree to allow this use of its cash collateral. Delta Trust will consider some stock in M & M Holding being transferred to this creditor to satisfy that debt obligation, as long as the amount of stock transferred does not compromise Chet Mercer's control of the company stock or Delta Trust's collateral position in Mr. Mercer's stock.

3. Obligations of Borrowers and Chet Mercer. Upon acceptance of the terms herein, and subsequent approval by the Bankruptcy Court, the Borrowers and Chet Mercer agree as follows:

(a) Harold and Teresa Majors shall transfer all stock ownership in M & M Holding and Davis Trailer and all membership interest in M & M Real Estate to Chet Mercer. This stock ownership and membership interest transfer would also include transfer of all company/LLC assets, liabilities, and income from assets, and also any leases and/or rights to receive income from leases.

(b) Chet Mercer shall pledge all stock, membership interest in the entities and related assets received pursuant to this Agreement to Delta Trust as additional



collateral on loans # [REDACTED]1955 and [REDACTED]1315 and additionally sign a personal guarantee on both Notes for the full amounts due.

(c) Upon this transfer of ownership, Harold and Teresa Majors would relinquish all current and future control of all entities to Chet Mercer and they would no longer remain on the payroll of any of the entities or receive any compensation from the entities, other than what is specifically detailed in this Proposal.

(d) For a period of three (3) years from the date of an order approving this Proposal, Davis Trailer would agree to continue to pay existing health insurance for Harold and Teresa Majors, subject to Delta Trust verifying the coverage and cost of this expense, and approving the same.

(e) Davis Trailer will pay all past due premiums to reinstate one existing \$1 million life insurance policy on the life of Harold Majors, after Delta Trust has verified the coverage and cost of this expense, and approved the same. Delta Trust agrees that if Davis Trailer does not have sufficient cash to make this payment at the time required to reinstate the life insurance, Delta Trust will agree to force advance the amount required on Loan # [REDACTED]1955 or # [REDACTED]1315, after Delta Trust has verified coverage and validity of the expense, and approved the same.

(f) Davis Trailer would agree to pay the on-going premium on one existing \$1 million life insurance policy on the life of Harold Majors, after Delta Trust has verified the coverage and cost of this expense, and Harold Majors agrees to give Delta Trust an assignment of \$500,000 of said life insurance to further secure loans # [REDACTED]1955 and [REDACTED]1315 with Delta Trust. Davis Trailer's obligation herein shall be in effect until further written agreement by the parties, or until said life insurance policy is released, in writing, as collateral by Delta Trust.

4. Trustee.

(a) Appointment of Trustee. A hearing is currently scheduled for October 29, 2012 on Delta Trust's Motion for Appointment of a Trustee. Davis Trailer, Harold Majors, Chet Mercer and all parties hereto, expressly consent to the appointment of a Trustee, and shall promptly agree and approve the necessary Order granting Delta

Trust's Motion for Appointment of a Trustee prior to the October 29, 2012 hearing, or as agreed to by the parties in writing. The Trustee shall have all powers available to it under applicable law. The parties agree that, in addition to the other proposals outlined herein, the best chance of success to revive Davis Trailer is for the Bankruptcy Court to appoint a Trustee to monitor the operation of Davis Trailer, as long as Davis Trailer in bankruptcy.

(b) Financial review or audit. Subject to an order of the Court, the Trustee shall be allowed to immediately arrange for a financial review or audit of the books and records of Davis Trailer, M & M Holdings and M & M Real Estate.

5. Operating Line of Credit.

(a) Once all the requirements herein are completed to the satisfaction of Delta Trust, then Delta Trust will consider providing Davis Trailer with a working capital line of credit in an amount agreed to at the time of any such request.

(b) Delta Trust will require that all draws made on this line of credit be first submitted to the Trustee for approval, and then to Delta Trust for final approval.

(c) Any additional funds issued by Delta Trust shall be entitled to priority and shall be secured by the assets of Davis Trailer, M & M Holding, M & M Real Estate and Chet Mercer, subject to the approval of the Bankruptcy Court.

6. Miscellaneous

(a) This Proposal is being given subject to the terms and provisions of the Loan Documents. By making this Proposal, Delta Trust does not waive any of the rights or remedies available to it under the Loan Documents, applicable law or otherwise.

(b) No failure to exercise any rights or remedies available to Delta Trust and no delay in exercising any such rights or remedies shall operate as a waiver of any rights which Delta Trust may have pursuant to the terms of the Loan Documents or otherwise.

(c) Borrowers and Mr. Mercer unconditionally waive and release any claim or cause of action against Delta Trust, and their employees, officers, directors, attorneys, and agents under or in connection with the Loan Documents and this Proposal, or any prior negotiations related to the Loan Documents and this workout and bankruptcy. Borrowers and Mr. Mercer also agree and acknowledge that they have no defenses to the payment and performance obligations that are set forth in the Loan Documents, and that they possess no claims, including lender liability, or offset rights of any nature that would prohibit Delta Trust from enforcing its rights and remedies under the Loan Documents.

(d) Borrowers agree and acknowledge that Delta Trust has fully performed all of its obligations as set forth in the Loan Documents.

(e) This Proposal is an offer of settlement and shall not be used in any court proceeding or otherwise, unless expressly allowed by Delta Trust.

(f) This Proposal is made with the consent of Davis Trailer and does not violate the automatic stay imposed by 11 U.S.C. § 362.

(g) These terms shall not be effective until all necessary documents are executed by the parties and approved by the Bankruptcy Court.

(h) Any modifications hereto must be made in writing and signed by authorized representatives of all the parties hereto

(i) This Proposal may be executed in multiple counterparts which when read together shall constitute and comprise a single document.

*(This area intentionally left blank. Signature Page to follow)*

**THIS PROPOSAL SUBMITTED BY THE FOLLOWING:**

**SUBMITTED BY:**

DELTA TRUST & BANK

by:

Carole J. Smith  
Carole J. Smith,  
Senior Vice President

Date: 10/25/12

**THIS PROPOSAL AGREED TO AND ACCEPTED BY THE FOLLOWING:**

**AGREED TO AND ACCEPTED BY:**

DAVIS TRAILER & EQUIPMENT, INC.

by:

*Harold Majors*  
Name/Title

Date: 10/31/12

**AGREED TO AND ACCEPTED BY:**

M & M HOLDING, INC.

by:

*Harold Majors*  
Name/Title

Date: 10/31/12

**AGREED TO AND ACCEPTED BY:**

M & M REAL ESTATE, LLC

by:

*Harold Majors*  
Name/Title

Date: 10/31/12

**AGREED TO AND ACCEPTED BY:**

*Chet Mercer*  
Chet Mercer

**AGREED TO AND ACCEPTED BY:**

*Harold Majors*  
Harold Majors

**AGREED TO AND ACCEPTED BY:**

*Teresa Majors*  
Teresa Majors

2010058473 Received: 9/22/2010 8:20:10 AM  
Recorded: 09/22/2010 08:32:46 AM Filed &  
Recorded in Official Records of PAT O'BRIEN,  
PULASKI COUNTY CIRCUIT/COUNTY CLERK  
Fees \$70.00

1955

**This Instrument Prepared By:**

Gill Elrod Ragon Owen & Sherman, P.A.  
425 West Capitol Avenue, Suite 3801  
Little Rock, Arkansas 72201



**MORTGAGE, SECURITY AGREEMENT  
AND ASSIGNMENT OF RENTS**

This MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS (the "Mortgage") is dated as of the 17<sup>th</sup> day of September 2010 and is executed and entered into by M&M REAL ESTATE, LLC, (collectively, the "Mortgagor") in favor of DELTA TRUST & BANK or its successors or assigns ("Lender").

WHEREAS, Mortgagor is the owner of commercial real estate located in Little Rock, Arkansas (the "Project") which is more particularly described on EXHIBIT A attached hereto (the "Land"); and

WHEREAS, contemporaneously herewith, Lender extended funds to Mortgagor and mortgagor's affiliates for the purpose of capitalizing Mortgagor's business and those of its affiliates from which extension Mortgagor receives substantial benefit; and

WHEREAS, the Lender would not otherwise have extended such credit without Mortgagor executing and delivering this Mortgage for the purpose of securing the obligations of Mortgagor to Lender;

WHEREAS, Mortgagor's indebtedness to Lender is evidenced by that certain \$1,100,000 Secured Open-End Promissory Note and that certain \$1,795,000 Secured Term Promissory Note of even date herewith (said notes, together with all extensions, renewals, modifications, consolidations, substitutions, replacements, restatements and increased additional advances evidenced by other written documents or otherwise thereof being collectively referred to herein as the "Note");

WHEREAS, Mortgagor desires to secure repayment of the Note by means of Mortgagor's execution and delivery of this Mortgage to Lender; and

WHEREAS, all capitalized terms not specifically defined herein shall have the meanings given to them in the Secured Loan Agreement executed by Mortgagor as of an even date herewith (the "Secured Loan Agreement").

**EXHIBIT  
D**

NOW, THEREFORE, in consideration of the mutual covenants and conditions referenced and exchanged herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. That Mortgagor does hereby grant, bargain, sell, convey and deliver unto Lender, and unto its successors and assigns, the following described property (the "Property"), TO HAVE AND TO HOLD the same unto the said Lender, its successors and assigns forever:

- (a) Land. The Land;
- (b) Additional Land. All additional property interests related to the Land hereafter acquired by Mortgagor for use in the development of the Land that may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Mortgage; and
- (c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements, and improvements now or hereafter erected or located on the Land and owned by Mortgagor (the "Improvements"); and
- (d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, tides, interests, privileges, liberties, servitude, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in any street, road or avenue, opened or proposed, in front of or adjoining the Land, and all the estates, rights, titles, interests, property, possession, claim and demand whatsoever, both at law and in equity of Mortgagor of, in and to the Land, the Improvements and every part and parcel thereof, with the appurtenances thereto (collectively, the "Easements"); and
- (e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to all heating, air-conditioning, plumbing, lighting, communications and elevator fixtures) goods, inventory, deposit accounts, computer software, general intangibles, payment intangibles, building materials and supplies, inventory and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now and hereafter located upon the Land, the Easements, or the Improvements, or appurtenant thereto, used or created in connection with the present or future operation and occupancy of the Land, the Easements, and the Improvements owned by Mortgagor (collectively, the "Personal Property"), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Arkansas Uniform Commercial Code, as applicable, and all proceeds and products of the above; and
- (f) Leases and Rents. All leases and other agreements affecting the use, enjoyment or occupancy of all or any part of the Land, the Improvements, the Easements, or the Personal Property heretofore and hereafter entered into whether before or after the filing by or against Mortgagor of any petition for relief under 11 U.S.C. Section 101, *et seq.* (the "Bankruptcy Code"), as the same may be amended from time to time (collectively, the "Leases") and all right, title and interest of

Mortgagor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder, and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land, the Improvements, the Easements, and the Personal Property whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (collectively, the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt (defined in Section 2.1); and

- (g) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Land, the Improvements, the Easements, and the Personal Property, whether from the exercise of the right of eminent domain (including, but not limited to any transfer made in lieu of or in anticipation of the exercise of the right) or for a change of grade, access, or for any other injury to or decrease in the value of the Land, the Improvements, the Easements and the Personal Property; and
- (h) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Land, the Improvements, the Easements and the Personal Property, including, without limitation, the right to receive and apply the proceeds of any insurance judgments, or settlements made in lieu thereof, for damage to the Land, the Improvements, the Easements and the Personal Property; and
- (i) Conversion. All proceeds of the voluntary or involuntary conversion of the Land, the Improvements, the Easements and the Personal Property, including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims; and
- (j) Rights. The right, in the name and on behalf of Mortgagor while an Event of Default remains uncured, to commence any action or proceeding to protect the interest of Lender in the Land, the Improvements, the Easements and the Personal Property and to appear in and defend any action or proceedings brought with respect to the Land, the Improvements, the Easements and the Personal Property; and
- (k) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, including all management, maintenance and service contracts, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land, the Improvements, the Easements and the Personal Property and any part thereof or respecting any business or activity conducted on the Land by Mortgagor, the Improvements, the Easements and the Personal Property and any part thereof and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, while an Event of Default remains uncured, to receive and collect any sums payable to Mortgagor thereunder; and
- (l) Intangibles. All trademarks, service marks, logos, copyrights, goodwill, books and records and all other general intangibles specific to or used solely in connection with the operation of the Land, the Improvements, the Easements and the Personal Property by the Mortgagor and in which the Mortgagor has rights; and



(m) Other Rights. Any and all other rights of Mortgagor in and to the items set forth in Subsections (a) through (l) above.

2. Assignment of Leases and Rents. Mortgagor hereby absolutely and unconditionally assigns to Lender Mortgagor's right, title and interest in and to all current and future Leases and Rents. Mortgagor intends this assignment as a present, absolute assignment and not an assignment for additional security only. Nevertheless, Lender grants to Mortgagor a revocable license to collect and receive the Rents. Mortgagor shall hold a portion of the Rents sufficient to discharge all current sums due on the Note, for use in the payment of such sums.

3. Security Agreement. This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the Arkansas Uniform Commercial Codes, as applicable. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. By executing and delivering this Mortgage, Mortgagor hereby grants to Lender, as security for the Obligations, a security interest in the Personal Property to the full extent that the Property may be subject to the Arkansas Uniform Commercial Code, as applicable, and, further, authorizes Lender to file and execute on behalf of Mortgagor, if necessary, all financing statements and continuation statements that might be required by law in order to perfect Lender's security interests in and to the Personal Property and other collateral being granted to Lender hereunder. A carbon, photostatic or other reproduction of this Mortgage shall be sufficient as a financing statement. Lender shall have the right at any time to file a manually executed counterpart or a carbon, photostatic or other reproduction of this Mortgage as a financing statement in either the central or local UCC records of any jurisdiction wherein the Collateral is situated, but the failure of Lender to do so shall not impair (a) the effectiveness of this Mortgage as a fixture filing as permitted by Section 9.502(c) of the UCC, or (b) the validity and enforceability of this Mortgage in any respect whatsoever.

4. Pledge of Monies Held. Mortgagor hereby pledges to Lender any and all monies now or hereafter held by Lender, as additional security for the Debt (as defined herein) until expended or applied as provided in this Mortgage; provided, however, that so long as no event has occurred which would constitute an Event of Default if not cured within the applicable notice and cure periods, Borrower shall have access to, and the use of, all such funds.

And Mortgagor covenants with Lender, its successors and assigns, that Mortgagor will forever warrant and defend the title to the above-described property against any and all lawful claims whatever.

PROVIDED, however, the foregoing conveyance is given as a mortgage for the purpose of securing the following (the "Debt"):

- (a) the payment of the Note and all other Obligations (as defined in the Secured Loan Agreement);
- (b) and the repayment to the Lender of all reimbursable expense at any time accruing to such Lender under the provisions hereof; and
- (c) the payment of all future and additional indebtedness, direct or indirect, created after the date of this mortgage, which may be owing by Mortgagor (or by any of the persons herein

designated under the term "Mortgagor") to the Lender at any time prior to the payment in full with interest of the indebtedness or the foreclosure of this Mortgage therefor (the event occurring first to be controlling); such additional indebtedness to be secured hereby regardless of whether it shall be predicated upon future loans or advances hereafter made by the Lender, or obligations hereafter acquired by such Lender, through assignment or subrogation or otherwise, or shall represent indirect obligations (created after the date of this Mortgage), based upon any endorsements, guaranties or suretyship; and it is agreed that this Mortgage shall stand as security for all such future and additional indebtedness, whether it be incurred for any business purpose that was related or wholly unrelated to the purpose of the original loan, or whether it was incurred for some personal or non-business purpose, or for any other purpose related or unrelated, or similar or dissimilar, to the purpose of the original loan.

5. Remedies. Upon the occurrence of any Event of Default (as defined in the Credit Agreement), including the failure of Mortgagor to perform any obligation hereunder, Mortgagor agrees that Lender may take such action, without notice or demand, unless specifically required, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Property, including, but not limited to the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) Declare the entire unpaid Debt to be immediately due and payable;
- (b) Institute proceedings, judicial or otherwise, for the complete foreclosure of this Mortgage under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) With or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Mortgage for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) Institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or any agreement related thereto;
- (e) Recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage;
- (f) Apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Mortgagor, or of any person, firm or other entity liable for the payment of the Debt;
- (g) Subject to any applicable law, the license granted to Mortgagor under Section 2 shall automatically be revoked;

- (h) Exercise any and all rights and remedies granted to a secured party upon default under the Arkansas or Uniform Commercial Code, as applicable, including, without limiting the generality of the foregoing: (1) the right to take possession of the Personal Property or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Personal Property, and (2) request Mortgagor at its expense to assemble the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Personal Property sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor;
- (i) Pursue such other remedies as Lender may have under the Credit Agreement and applicable law.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Property, this Mortgage shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

6. Protection of the Property. If Lender shall expend any sum or sums for the protection of any of the mortgaged property or the lien of this mortgage (Lender to have uncontrolled discretion as to the necessity of making any such expenditures), the repayment of such sum or sums on demand (with interest thereon at the highest rate permitted under Arkansas law from the date of each expenditure) shall be the personal obligation of the Mortgagor; and such obligation to repay will constitute a part of the indebtedness secured hereby. The expenditures thus made reimbursable will include (without limiting the foregoing) taxes, special improvement assessments, and sums paid to discharge prior liens. The cost of any abstract or supplemental abstract procured by the Lender of the secured indebtedness to facilitate foreclosure will also constitute a part of the reimbursable expense secured hereby.

7. Multiple Remedies. In the event of a default hereunder, the Lender hereby shall be entitled to enforce the lien of this mortgage in respect to all property encumbered hereby by foreclosure or otherwise in proceedings that are prosecuted simultaneously or are prosecuted separately in such order as the Lender may select.

8. Waivers. The Mortgagor hereby waives any and all rights of dower, curtesy, appraisement, sale, redemption and homestead under the laws of Arkansas, and especially under the Act of May 8, 1899, and Acts amendatory thereto.

9. Representations and Warranties. Mortgagor represents and warrants:

- (a) that Mortgagor is the owner or has control of the Property;
- (b) that Mortgagor has the right to pledge or grant a security interest in the Property;
- (c) that the Property is genuine, free from liens, adverse claims, set-offs, default, repayment, defenses and conditions precedent of any kind or character;

- (d) that the security interest in the Property granted to Lender hereby is a first and prior security interest and that Mortgagor has not, and will not, grant or suffer another security interest in or encumbrance against the Property;
- (e) that Mortgagor's execution, delivery and performance of this Mortgage (i) will not violate any indenture, agreement or any other instrument to which Mortgagor is a party or by which Mortgagor or any of its property is bound; and (ii) will not be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its property or assets, except as contemplated by the provisions of this Mortgage;
- (f) that this Mortgage when executed and delivered to Lender, will constitute the legal, valid and binding obligations of respective signatories thereto enforceable in accordance with their terms;
- (g) any residential Improvements located on the Land are not used by the Mortgagor as a primary residence and are not subject to any homestead exemptions or other homestead rights. To the extent any homestead rights or exemptions may be applicable to the Property, the Mortgagor hereby specifically waives them in their entirety.

10. Covenants of Mortgagor.

- (a) Mortgagor shall (i) perform all obligations secured hereby when performance is due; (ii) permit Lender to exercise its powers; (iii) execute and deliver such documents as Lender reasonably deems necessary to create, perfect and continue the security interests contemplated hereby; (iv) not permit any lien on the Property, except in favor to Lender; and (v) not change its chief place of business or the place where Mortgagor keeps its records concerning the Property without first giving Lender written notice of the address to which Mortgagor is moving same.
- (b) Without Lender's consent, Mortgagor shall (i) not commingle proceeds; (ii) not sell, transfer, encumber, hypothecate or otherwise dispose of any Property or proceeds (except as may otherwise be permitted herein) at any time, except to Lender or except in the ordinary course of business; (iii) not modify, alter, amend, or subordinate, or consent to or suffer any modification, alteration, amendment or subordination of, any of the Property, nor, through action or failure to act, waive any of its rights thereunder; and (iv) provide any service and do all other acts and things reasonably necessary to keep the Property free and clear of all defenses, rights of off-set and counterclaims.
- (c) Upon the request of Lender, the Mortgagor shall execute or cause the execution, acknowledgment and delivery of such further instruments (including, without limitation, declarations of no set-off) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of this Mortgage or the Credit Agreement (as defined in the Secured Loan Agreement).

- (d) The Mortgagor shall not take any action with respect to any of the Property held by Lender from time to time which is inconsistent with the provisions and the purpose of this Mortgage or which would adversely affect the rights of Lender under the Credit Agreement.
- (e) Mortgagor agrees to pay, prior to delinquency, all taxes, special improvement assessments and other governmental charges against the mortgaged property, both real and personal, at any time levied or becoming due.
- (f) Mortgagor agrees to prevent the mortgaged property from becoming encumbered by any lien or charge having priority over, or on a parity with, the lien of this mortgage; and to comply with all statutes, ordinances and regulations relating to such property.

11. Due on Sale/Encumbrance. Mortgagor agrees that Mortgagor shall not sell, convey, mortgage, grant, bargain, encumber, pledge, assign, or otherwise transfer the Property or any part thereof or permit the Property or any part thereof (other than the interest of a tenant) to be sold, conveyed, mortgaged, granted, bargained, encumbered, pledged, assigned, or otherwise transferred in any transaction which does not result in full payment of the Debt at the time of the closing of such transaction.

12. CHOICE OF LAW. THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARKANSAS (WITHOUT REGARD TO CHOICE OF LAW OR CONFLICT OF LAWS RULES) AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN THE STATE OF ARKANSAS, EXCEPT TO THE EXTENT THAT REAL AND PERSONAL PROPERTY LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, INCLUDING LAWS RELATING TO PERFECTION AND THE EFFECT OF PERFECTION AND NON-PERFECTION OF LIENS ON REAL AND PERSONAL PROPERTY, OR THE TRANSFER OF, AND EFFECT OF TRANSFER OF, SECURITY TITLE TO REAL PROPERTY LOCATED IN SUCH STATE, SHALL NECESSARILY APPLY TO THE EXERCISE OF ANY REMEDIES RELATING TO THE ENFORCEMENT OF THE SECURITY COVERED BY THIS MORTGAGE AND PROVIDED FURTHER, THE PARTIES EXPRESSLY CHOOSE THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED TO GOVERN THE EFFECTIVENESS OF THE GRANT AND CONVEYANCE OF THE LIEN AGAINST AND SECURITY TITLE TO THE PROPERTY.

13. Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Mortgage or any application thereof shall be invalid or unenforceable, the remainder of this Mortgage and any other application of the term shall not be affected thereby.

14. No Oral Change. This Mortgage, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Mortgagor or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

15. Duplicate Originals; Counterparts. This Mortgage may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Mortgage may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Mortgage. The failure of any party hereto to execute this Mortgage, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

16. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

17. Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Mortgagor's obligations hereunder, under the Note and the Credit Agreement and the performance and discharge of the Obligations.

18. Entire Agreement. The Note, this Mortgage and the Credit Agreement constitute the entire understanding and agreement between Mortgagor and Lender with respect to the transactions arising in connection herewith and supersede all prior written or oral understandings and agreements between Mortgagor and Lender with respect thereto. Mortgagor hereby acknowledges that, except as incorporated in writing in the Note, this Mortgage and the Credit Agreement, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, this Mortgage and the Credit Agreement.

19. No Waiver. No waiver by Lender of any default or breach by Mortgagor hereunder shall be implied from any omission by Lender to take, or any delay in taking, action on account of such default other than the default expressly made the subject of the waiver and any such express waiver shall be operative only for the time and to the extent therein stated. Any waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by Lender to or of any act by Mortgagor requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The intent of this paragraph is to avoid unintentional waivers by Lender of any of its rights hereunder.

20. No Duty of Lender. Nothing in this Mortgage shall impose or imply any duty or obligation whatsoever upon Lender, and Lender shall be under no duty, to take any action to preserve rights of Mortgagor with respect to any of the security held by Lender for the obligations. Mortgagor waives any and all impairment of recourse and/or impairment of collateral defenses that it may possess against the Lender.

21. Binding Effect; Assignment. This Mortgage may be assigned by Lender. Mortgagor may not assign its interest in, or obligation under, this Mortgage except with the written consent of Lender. Subject to the forgoing, all of the terms, covenants, conditions, representations and warranties hereof shall inure to the benefit of, and be binding upon, the successors and assigns of Lender and Mortgagor. Mortgagor hereby consents to the collateral assignment of Lender's interests in and to this Agreement to third party creditors of Lender without the need for any further consent of whatever nature by Mortgagor. Should Lender's assignee assume rights under this agreement, Mortgagor covenants and agrees that it will continue to perform this agreement in accordance with its terms and conditions and shall recognize said assignee as the lawful and enforceable successor in interest to Lender.

22. Preparation of Agreement. The parties hereto acknowledge that this Mortgage has been negotiated and prepared in an arms-length transaction and that both Lender and Mortgagor have negotiated all the terms contained herein. Accordingly, the parties agree that neither party shall be deemed to have drafted this agreement and this agreement shall not be interpreted against either party as the draftsman.

23. Advice of Counsel. Each party acknowledges to the other that such party has been advised by legal counsel in connection with the negotiation and execution of this Mortgage and that each party understands the terms and conditions contained herein and that each has entered into this Mortgage voluntarily.

24. Severability. In the event that any one or more of the provisions contained in this Mortgage or in any other loan document executed in connection herewith shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage or any other loan document executed in connection herewith, and in lieu of such invalid, illegal or unenforceable provision there shall be added automatically as part of this Agreement or any other loan document executed in connection herewith a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable thereafter.

*[This Space Intentionally Left Blank; Signatures to Follow]*

[Signatures to Mortgage, Security Agreement and Assignment of Rents]

IN WITNESS WHEREOF, the undersigned have executed this Mortgage, Security Agreement and Assignment of Rents, as of the date set forth in the preface.

MORTGAGOR:

M&M Real Estate, LLC

By: *David Mays*

Title: *Member*

ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF *Pulaski*

Personally appeared before me, the undersigned authority in and for the said county and state, on this 17<sup>th</sup> day of September, 2010, within my jurisdiction, the within-named *David Mays* who acknowledged that he is the *Member* of M&M REAL ESTATE, LLC, an Arkansas limited liability company (the "Company"), and that, for and on behalf of the said Company and as its act and deed, he/she executed the above and foregoing instrument after first having been duly authorized by said Company to do so.

*Brad Sims*  
Notary Public

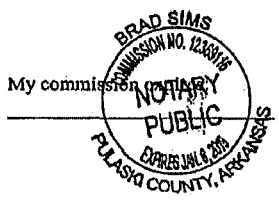




EXHIBIT A

LAND

PARCEL 1 - Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West along said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.

PARCEL 2 - Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway, known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10495 and 96-10496, records of Pulaski County, Arkansas.

PARCEL 3 - Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds East 5.0 feet to the point of beginning.

2011059249 Received: 10/6/2011 1:56:34 PM  
Recorded: 10/06/2011 02:05:10 PM Filed &  
Recorded in Official Records of Larry Crane,  
PULASKI COUNTY CIRCUIT/COUNTY CLERK  
Fees \$30.00

This Instrument Prepared by:

Gill Elrod Ragon Owen & Sherman, P.A.  
425 W. Capitol Ave., Suite 3801  
Little Rock, AR 72201

Loan # 7841315



1315

**MODIFICATION OF MORTGAGE**

THIS MODIFICATION OF MORTGAGE, dated as of the 17<sup>th</sup> day of September, 2011, is made and executed by and between M&M REAL ESTATE, LLC (the "Grantor") and DELTA TRUST & BANK ("Lender"):

WHEREAS, Lender and Grantor have entered into that certain Mortgage, Security Agreement and Assignment of Rents dated as of September 17, 2010 (the "Mortgage"), which has been recorded with the Circuit Clerk and Ex Officio Recorder of Pulaski County, Arkansas on September 22, 2010 as document number 2010058473;

WHEREAS, the Mortgage covers real property located in Pulaski County, Arkansas and more particularly described on EXHIBIT A attached hereto and incorporated herein by this reference (the "Real Property");

WHEREAS, the Grantor has requested that Lender make certain modifications to the obligations secured by the Mortgage, including modifying the maturity date and the payment schedule, Lender is willing to make such modifications, and the parties have evidenced such modifications in a separate Change in Terms Agreement dated as of an even date herewith (the "Change in Terms Agreement").

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Mortgage is hereby modified to the extent necessary to reflect the modifications set forth in the Change in Terms Agreement; the terms of which are incorporated herein by this reference, including extending the Maturity Date of the Note to the date of Lender's demand or October 5, 2012, whichever occurs first.

2. Except as expressly modified above, the terms of the original Mortgage shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Mortgage as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Mortgage (the "Note"). It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers, and endorser to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Mortgage does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to

**EXHIBIT**  
**E**

Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MODIFICATION OF MORTGAGE IS DATED AS OF THE DATE SET FORTH IN THE PREFACE.

GRANTOR:

M&M REAL ESTATE, LLC

By: *[Signature]*

Title: *Partner*

LENDER:

DELTA TRUST & BANK

By: *[Signature]*

Title: *VP*

ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF Saline

Personally appeared before me, the undersigned authority in and for the said county and state, on this 17 day of Sept., 2011, within my jurisdiction, the within-named Harold Maibz who acknowledged that he/she is the Partner of M&M REAL ESTATE LLC (the "Company"), and that, for and on behalf of the said Company and as its act and deed, he / she executed the above and foregoing instrument after first having been duly authorized by said Company to do so.

Janice Lea Johnson  
Notary Public

My commission expires:  
9-30-2015



ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF Saline

Personally appeared before me, the undersigned authority in and for the said county and state, on this 17 day of Sept., 2011, within my jurisdiction, the within-named Amy Pierce, who acknowledged that he/she is the SVP of DELTA TRUST & BANK, and that, for and on behalf of the said bank and as its act and deed, she/he executed the above and foregoing instrument after first having been duly authorized by said bank to do so.

Janice Lea Johnson  
Notary Public

My commission expires:  
9-30-2015

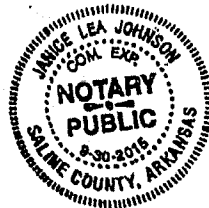


EXHIBIT A

Legal Description

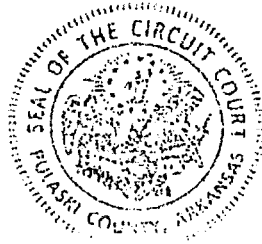
PARCEL 1 - Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West along said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.

PARCEL 2 - Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway; known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10493 and 96-10496, records of Pulaski County, Arkansas.

PARCEL 3 - Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds East 5.0 feet to the point of beginning.

This Instrument Prepared by:  
Gill Ragon Owen, P.A.  
425 W. Capitol Ave., Suite 3800  
Little Rock, AR 72201

Loan # 1315  
Loan # 1955  
Loan # 5716



2014061685 Received: 10/20/2014 12:32:17 PM  
Recorded: 10/20/2014 01:04:39 PM Filed &  
Recorded in Official Records of Larry Crane,  
PULASKI COUNTY CIRCUIT/COUNTY CLERK  
Fees \$30.00

### MODIFICATION OF MORTGAGE

THIS MODIFICATION OF MORTGAGE, dated as of the 25<sup>th</sup> day of August, 2014, is made and executed by and between M&M REAL ESTATE, LLC (the "Grantor") and DELTA TRUST & BANK ("Lender").

WHEREAS, Lender and Grantor have entered into that certain Mortgage, Security Agreement and Assignment of Rents dated as of September 17, 2010 (the "Mortgage"), which has been recorded with the Circuit Clerk and Ex Officio Recorder of Pulaski County, Arkansas on September 22, 2010 as document number 2010058473;

WHEREAS, the Mortgage covers real property located in Pulaski County, Arkansas and more particularly described on EXHIBIT A attached hereto and incorporated herein by this reference (the "Real Property");

WHEREAS, Grantor and its affiliates executed and delivered to Lender on or about September 17, 2010 that certain \$1,795,000 Secured Promissory Note (the "SPN") and that certain \$1,100,000 Secured Open-End Line of Credit Promissory Note (the "First LOC") and other documents related to the foregoing, referenced in the foregoing or otherwise applicable to the subject transaction (said documents, along with the SPN and First LOC and all documents describing or securing the obligations described therein, including any and all prior amendments thereto, being collectively referred to herein as the "2010 Loan Documents"); and

WHEREAS, Grantor and its affiliates executed and delivered to Lender on or about March 15, 2013 that certain \$240,000 Secured Open-End Line of Credit Promissory Note (the "Second LOC") and other documents related to the foregoing, referenced in the foregoing or otherwise applicable to the subject transaction (said documents, along with the Second LOC and all documents describing or securing the obligations described therein, including any and all prior amendments thereto, being collectively referred to herein as the "2013 Loan Documents") (the 2010 Loan Documents and the 2013 Loan Documents, being collectively referred to herein as the "Loan Documents"); and

WHEREAS, the Mortgage secures the obligations contained in the Loan Documents of the Grantor as described in the Mortgage; and

WHEREAS, the Grantor and its affiliates have requested that Lender make certain modifications to the obligations secured by the Mortgage, including modifying the maturity date and the payment schedule applicable to the SPN, First LOC, and Second LOC, and Lender is willing to make such modifications, and the parties have evidenced such modifications in a separate Third Change in Terms Agreement dated as of an even date herewith related to the SPN, a separate Third Change in Terms Agreement dated as of an even date

**EXHIBIT**  
**F**

herewith related to the First LOC, and a separate Change in Terms Agreement dated as of an even date herewith related to the Second LOC (collectively, the "Change in Terms Agreements").

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Mortgage is hereby modified to the extent necessary to reflect the modifications set forth in the Change in Terms Agreements, the terms of which are incorporated herein by this reference, including extending the Maturity Date of the Notes (as defined below) to the date of Lender's demand or August 25, 2016, whichever occurs first.

2. The Mortgage is hereby modified to the extent necessary to reflect the definition of "Debt" and all other references set forth in the Loan Documents is hereby modified and amended to include the payment of that certain \$240,000 Secured Open-End Line of Credit Promissory Note dated March 15, 2013 and all other Obligations (as such term is defined in the Secured Open-End Line of Credit Loan Agreement dated as of an even date therewith).

3. Except as expressly modified above, the terms of the original Mortgage shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Mortgage as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the SPN promissory note, First LOC promissory note, Second LOC promissory note, or other credit agreement secured by the Mortgage (the "Notes"). It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers, and endorser to the Notes, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Mortgage does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MODIFICATION OF MORTGAGE IS DATED AS OF THE DATE SET FORTH IN THE PREFACE.

GRANTOR:  
M&M REAL ESTATE, LLC

LENDER:  
DELTA TRUST & BANK

By: Chris D. Mann

By: Carole J. Smith

Title: President

Title: Senior Vice President

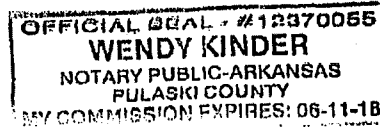
ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF Pulaski

Personally appeared before me, the undersigned authority in and for the said county and state, on this 26<sup>th</sup> day of August, 2014, within my jurisdiction, the within-named Chester Mercer who acknowledged that he / she is the President of M&M REAL ESTATE, LLC (the "Company"), and that, for and on behalf of the said Company and as its act and deed, he / she executed the above and foregoing instrument after first having been duly authorized by said Company to do so.

Wendy Kinder  
Notary Public

My commission expires:  
6-11-18



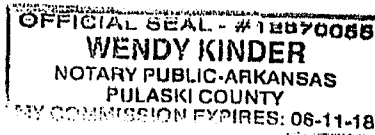
ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF Pulaski

Personally appeared before me, the undersigned authority in and for the said county and state, on this 26<sup>th</sup> day of August, 2014, within my jurisdiction, the within-named Carola Smith, who acknowledged that he/she is the Sr. Vice President of DELTA TRUST & BANK, and that, for and on behalf of the said bank and as its act and deed, she/he executed the above and foregoing instrument after first having been duly authorized by said bank to do so.

Wendy Kinder  
Notary Public

My commission expires:  
6-11-18





**EXHIBIT A**

**Legal Description**

**PARCEL 1 - Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West long said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.**

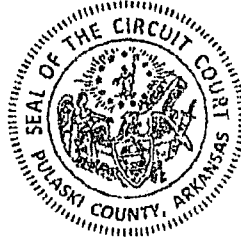
**PARCEL 2 - Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway, known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10495 and 96-10496, records of Pulaski County, Arkansas.**

**PARCEL 3 - Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds east 5.0 feet to the point of beginning.**

**This Instrument Prepared by:**

Gill Ragon Owen, P.A.  
425 W. Capitol Ave., Suite 3800  
Little Rock, AR 72201

Loan # 1315  
Loan # 1955  
Loan # 6716



2015076221

PRESENTED 12-07-2015 01:03:52 PM RECORDED 12-07-2015 01:14:41 PM

In Official Records of Larry Crane Circuit/County Clerk

PULASKI CO, AR FEE \$30.00

**MODIFICATION OF MORTGAGE**

THIS MODIFICATION OF MORTGAGE, dated as of the 2<sup>nd</sup> day of November, 2015, is made and executed by and between M&M REAL ESTATE, LLC (the "Grantor") and SIMMONS FIRST NATIONAL BANK ("Lender").

WHEREAS, Lender and Grantor have entered into that certain Mortgage, Security Agreement and Assignment of Rents dated as of September 17, 2010 (the "Mortgage"), which has been recorded with the Circuit Clerk and Ex Officio Recorder of Pulaski County, Arkansas on September 22, 2010 as document number 2010058473;

WHEREAS, the Mortgage covers real property located in Pulaski County, Arkansas and more particularly described on EXHIBIT A attached hereto and incorporated herein by this reference (the "Real Property");

WHEREAS, Grantor and its affiliates executed and delivered to Lender on or about September 17, 2010 that certain \$1,795,000 Secured Promissory Note (the "SPN") and that certain \$1,100,000 Secured Open-End Line of Credit Promissory Note (the "First LOC") and other documents related to the foregoing, referenced in the foregoing or otherwise applicable to the subject transaction (said documents, along with the SPN and First LOC and all documents describing or securing the obligations described therein, including any and all prior amendments thereto, being collectively referred to herein as the "2010 Loan Documents"); and

WHEREAS, Grantor and its affiliates executed and delivered to Lender on or about March 15, 2013 that certain \$240,000 Secured Open-End Line of Credit Promissory Note (the "Second LOC") and other documents related to the foregoing, referenced in the foregoing or otherwise applicable to the subject transaction (said documents, along with the Second LOC and all documents describing or securing the obligations described therein, including any and all prior amendments thereto, being collectively referred to herein as the "2013 Loan Documents") (the 2010 Loan Documents and the 2013 Loan Documents, being collectively referred to herein as the "Loan Documents"); and

WHEREAS, the Mortgage secures the obligations contained in the Loan Documents of the Grantor as described in the Mortgage; and

WHEREAS, the Grantor and its affiliates have requested that Lender make certain modifications to the obligations secured by the Mortgage, including modifying the maturity date and the payment schedule applicable to the SPN, First LOC, and Second LOC, and Lender is willing to make such modifications, and the parties have evidenced such modifications in a separate Sixth Change in Terms Agreement dated as of an even date herewith related to the SPN, a separate Sixth Change in Terms Agreement dated as of an even date

**EXHIBIT**  
**G**

herewith related to the First LOC, and a separate Fourth Change in Terms Agreement dated as of an even date herewith related to the Second LOC (collectively, the "Change in Terms Agreements").

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Mortgage is hereby modified to the extent necessary to reflect the modifications set forth in the Change in Terms Agreements, the terms of which are incorporated herein by this reference, including extending the Maturity Date of the Notes (as defined below) to the date of Lender's demand or January 31, 2016, whichever occurs first.

2. The Mortgage is hereby modified to the extent necessary to reflect the definition of "Debt" and all other references set forth in the Loan Documents is hereby modified and amended to include the payment of that certain \$240,000 Secured Open-End Line of Credit Promissory Note dated March 15, 2013 and all other Obligations (as such term is defined in the Secured Open-End Line of Credit Loan Agreement dated as of an even date therewith).

3. Except as expressly modified above, the terms of the original Mortgage, as modified, shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Mortgage as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the SPN promissory note, First LOC promissory note, Second LOC promissory note, or other credit agreement secured by the Mortgage (the "Notes"). It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers, and endorser to the Notes, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Mortgage does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MODIFICATION OF MORTGAGE IS DATED AS OF THE DATE SET FORTH IN THE PREFACE.

GRANTOR:

M&M REAL ESTATE, LLC

By: Cheri D. Mene

Title: President

LENDER:

SIMMONS FIRST NATIONAL BANK

By: Harold Justice

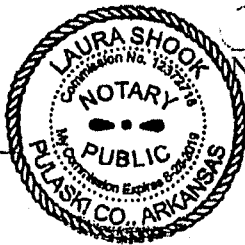
Title: Vice President

ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF PULASKI

Personally appeared before me, the undersigned authority in and for the said county and state, on this 7<sup>th</sup> day of December, 2015, within my jurisdiction, the within-named Chester Mercer who acknowledged that he / she is the President of M&M REAL ESTATE, LLC (the "Company"), and that, for and on behalf of the said Company and as its act and deed, he / she executed the above and foregoing instrument after first having been duly authorized by said Company to do so.

Laura Shook  
Notary Public



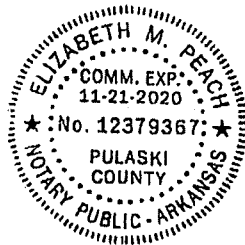
My commission expires:  
08/28/2019

ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF Pulaski

Personally appeared before me, the undersigned authority in and for the said county and state, on this 7<sup>th</sup> day of December, 2015, within my jurisdiction, the within-named Harry Justice, who acknowledged that he/she is the Vice president of SIMMONS FIRST NATIONAL BANK, and that, for and on behalf of the said bank and as its act and deed, she/he executed the above and foregoing instrument after first having been duly authorized by said bank to do so.

Elizabeth M. Peach  
Notary Public



My commission expires:  
November 21, 2020

**EXHIBIT A**

**Legal Description**

**PARCEL 1 - Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West along said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.**

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**PARCEL 3 - Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds east 5.0 feet to the point of beginning.**

**Prepared By:**

Simmons Bank  
Attn: Charles Brown  
P O Box 7009  
Pine Bluff, AR 71601

**And When Recorded Mail To:**

Alison Hutchings  
Midwest Servicing 4, LLC  
3144 S Winton Rd.  
Rochester, NY 14623

211-02

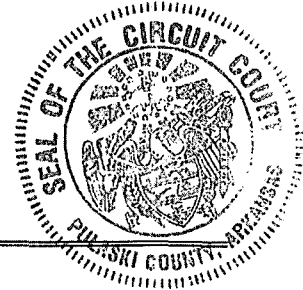


2017047055

PRESENTED: 07-25-2017 01:28:19 PM RECORDED: 07-25-2017 01:28:19 PM

In Official Records of Larry Crane Circuit/County Clerk

PULASKI CO, AR FEE \$20.00



(Space above this line for Recorder's use)

ASSIGNMENT OF MORTGAGE

SIMMONS BANK ("Assignor"), successor by conversion to SIMMONS FIRST NATIONAL BANK, successor by merger to DELTA TRUST & BANK, having an address of 501 Main, P. O Box 7009, Pine Bluff, AR, 71601, the holder of the mortgage dated September 17, 2010 in the amount of \$2,895,000.00 from M&M Real Estate, LLC in favor of Assignor recorded in the Records of the Circuit / County Clerk of Pulaski County, Arkansas, as Document Number 2010058473 (together with any amendments, renewals, extensions, or modifications thereto, the "Mortgage") hereby assigns the Mortgage, and the notes and claims secured thereby, to COMMERCIAL LOAN INVESTMENT X, LLC ("Assignee") with an address of c/o Castlake L.P., 4600 Wells Fargo Center, 90 South 7<sup>th</sup> Street, Minneapolis, Minnesota, 55402. This assignment is made without recourse, representations or warranties of any kind, express, implied or imposed by law.

IN WITNESS WHEREOF, the undersigned has executed this Assignment of Mortgage, as of June 8, 2017.

SIMMONS BANK, successor by conversion to  
Simmons First National Bank, successor by  
merger to Delta Trust & Bank

By: Charles Brown  
Name: Charles Brown  
Title: SVP Credit Administration

[THE REMAINDER OF THIS PAGE WAS LEFT BLANK INTENTIONALLY]

EXHIBIT  
H

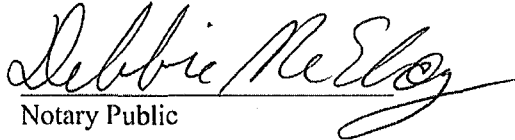
**ACKNOWLEDGEMENT**

STATE OF: ARKANSAS  
COUNTY OF: PULASKI

The foregoing instrument was ACKNOWLEDGED before me this 8th day of June, 2017, by Charles Brown, SVP Credit Administration of Simmons Bank, an Arkansas State bank, on behalf of said Simmons Bank.

[S E A L]

OFFICIAL SEAL  
DEBBIE MCELROY  
NOTARY PUBLIC, ARKANSAS  
LONOKE CO. COMM #12396382  
MY COMMISSION EXPIRES 12-08-2023

  
Notary Public



**2020002554**  
PULASKI CO. AR FEE \$25.00  
PRESENTED  
1/13/2020 2:11:11 PM  
RECORDED  
01/13/2020 04:04:19 PM  
TERRI HOLLINGSWORTH  
Circuit / County Clerk  
BY: RUTHIE WATSON  
DEPUTY RECORDER



Instrument Prepared By:  
Midwest Servicing 4, LLC  
3144 S. Winton Rd.  
Rochester, NY 14623

After Recording Return To  
SCR Joint Venture, L.P.  
100 N. Center Street  
Newton Falls, OH 44444  
(29011-01(1))

01-2

### ASSIGNMENT OF MORTGAGE

FOR VALUE RECEIVED, Commercial Loan Investment X, LLC, having an address of c/o Midwest Servicing 4, LLC, 3144 S. Winton Rd., Rochester, NY 14623 ("Assignor") does hereby grant, bargain, sell, assign, transfer, and convey to SCR Joint Venture, L.P., having an address 100 N. Center Street, Newton Falls, OH 44444 ("Assignee"), all of Assignor's right, title and interest in and to that certain Mortgage described below ("Mortgage"), which Mortgage encumbers the property more particularly described therein, together with the indebtedness evidenced by any promissory note or evidence of indebtedness. This Assignment is made without recourse to Assignor and without representation or warranty.

Name of Document:	<u>Mortgage, Security Agreement and Assignment of Rents</u>
Amount Secured:	<u>\$2,895,000.00</u>
Place of Recording:	<u>Circuit Clerk: Pulaski County, AR</u>
Grantor Name(s):	<u>M&amp;M Real Estate, LLC</u>
Original Beneficiary:	<u>Delta Trust &amp; Bank</u>
Date of Instrument:	<u>September 17, 2010</u>
Date of Recording:	<u>September 22, 2010</u>
Instrument/Ref No.:	<u>Inst. No. 2010058473</u>

The Mortgage was modified (a) pursuant to that certain Modification of Mortgage, dated September 17, 2011, recorded October 6, 2011 at Inst. No. 2011059249, (b) ) pursuant to that certain Modification of Mortgage, dated August 25, 2014, recorded October 20, 2014 at Inst. No. 2014061685, (c) ) pursuant to that certain Modification of Mortgage, dated November 2, 2015, recorded December 7, 2015 at Inst. No. 2015076221; which Mortgage was assigned to Assignor pursuant to that certain Assignment of Mortgage executed by Simmons Bank, successor by conversion to Simmons First National Bank, successor by merger to Delta Trust & Bank, dated June 8, 2017 and recorded July 25, 2017 at Inst. No. 2017047055.

**EXHIBIT**  
**I**



IN WITNESS WHEREOF, Assignor hereby sets his hand and seal to this Assignment of Mortgage this 27 day of December, 2019

Witnesses:

Julia Wiaters  
Signature

Julia Wiaters  
Print Name

M. Matthews  
Signature

Melissa Matthews  
Print Name

Commercial Loan Investment X, LLC

By: John M. Himmelberg  
John M. Himmelberg  
Authorized Representative

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27 day of December, 2019, before me, the undersigned, personally appeared John M. Himmelberg, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Kristen Turpyn  
Notary Public

KRISTEN TURPYN  
Notary Public, State of New York  
Reg. No. 01TU6176477  
Qualified in Monroe County  
Commission Expires October 15, 2023

EXHIBIT "A"

Tract 1:

Lot 1 A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West long said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.

Tract 2

Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway, known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10495 and 96-10496, records of Pulaski County, Arkansas.

Tract 3:

Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds east 5.0 feet to the point of beginning.

PLEDGE AND SECURITY AGREEMENT

1315

THIS PLEDGE AND SECURITY AGREEMENT ("Agreement") is entered into as of this 17<sup>th</sup> day of September, 2010, by M & M HOLDING, INC., M&M REAL ESTATE, LLC and DAVIS TRAILER & EQUIPMENT, INC. (collectively, "Debtor"), to and in favor of DELTA TRUST & BANK, and/or its successors and assigns ("Lender"), in order to induce Lender to extend or continue credit to Debtor pursuant to the provisions of that \$1,795,000 Secured Term Promissory Note of even date herewith (the "Note"). In consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Debtor hereby represents, warrants, covenants and agrees to the following:

1. Grant of Security Interest. Debtor hereby collaterally assigns, transfers and pledges to Lender, and grants to Lender a first and prior security interest in, all of Debtor's right, title and interest in and to that personal, intangible and other property which is more fully described on EXHIBIT A attached hereto, whether now existing or hereafter acquired, along with all proceeds associated therewith (collectively, the "Property"). Notwithstanding the foregoing, Lender's lien and security interest in certain items of Property shall be in second position to the Existing PMSI Liens (as defined in the Secured Loan Agreement executed by Debtor and Lender as of an even date herewith, (the "Secured Loan Agreement")). Debtor hereby authorizes Lender to file of record all UCC financing statements and continuation statements that might be required to perfect Lender's security interest in the Property and to sign Debtor's name thereto, if applicable.

2. Obligations Secured. The obligations secured hereby are the payment and performance of the Obligations (as defined in the Secured Loan Agreement). All capitalized terms used herein but not otherwise defined shall have the meaning given to them in the Secured Loan Agreement.

3. Termination. This Agreement shall terminate upon the payment and performance in full of all of the Obligations, including without limitation the payment of all indebtedness of Debtor to Lender existing or committed by Lender at the time Lender receives written notice of withdrawal of this Agreement by Debtor.

4. Warranties of Debtor. Debtor represents and warrants (a) that Debtor is the owner or has control of the Property; (b) that Debtor has the right to pledge or grant a security interest in the Property; (c) that the Property is genuine, free from liens, adverse claims, set-offs, default, repayment, defenses and conditions precedent of any kind or character, other than the Existing PMSI Liens; and (d) that the security interest in the Property granted to Lender hereby is a first and prior security interest and that Debtor has not, and will not, grant or suffer another security interest in or encumbrance against the Property, other than the Existing PMSI Liens.

5. Covenants of Debtor.

5.1 General Covenants. Debtor shall (a) perform all obligations secured hereby when performance is due; (b) permit Lender to exercise its powers; (c) execute and deliver such documents as Lender reasonably deems necessary to create, perfect and continue the security interests

EXHIBIT  
J

contemplated hereby; (d) not permit any lien on the Property, except in favor to Lender other than the Existing PMSI Liens; and (e) not change its chief place of business, its name, its organizational structure or the place where Debtor keeps its records concerning the Property without the prior written consent of Lender, which shall not be unreasonably withheld or delayed.

5.2 Covenants Regarding Property. Without Lender's consent, Debtor shall (a) not commingle proceeds; (b) not sell, transfer, encumber, hypothecate or otherwise dispose of any Property or proceeds (except as may otherwise be permitted herein) at any time, except to Lender or except in the ordinary course of business; (c) not modify, alter, amend, or subordinate, or consent to or suffer any modification, alteration, amendment or subordination of, any of the Property, nor, through action or failure to act, waive any of its rights thereunder; and (d) provide any service and do all other acts and things necessary to keep the Property free and clear of all defenses, rights of off-set and counterclaims.

6. Powers of Lender. Debtor appoints Lender its true attorney in fact to perform any of the following powers, which are coupled with an interest, are irrevocable until termination of this Agreement and may be exercised from time to time by Lender's officers and employees, or any of them upon the occurrence of an Event of Default (as defined in Section 8, below): (a) to notify any person obligated on any security, instrument or other document subject to this Agreement of Lender's rights hereunder; (b) to collect by legal proceedings or otherwise all interest, principal or other sums now or hereafter payable upon or on account of the Property; (c) to insure, process and preserve the Property; (d) to perform any obligation of Debtor under this Agreement; and (e) to execute on behalf of the Borrower or its affiliates all financing statements and renewal statements that may be necessary in Secured Party's discretion to perfect the security interests created by this instrument or otherwise. To effect the purposes of this Agreement, or otherwise upon instructions of Debtor, Lender may cause the Property to be transferred to Lender's name or the name of Lender's nominee.

7. Lender's Care and Delivery of Property. Lender's obligation with respect to Property in its possession shall be strictly limited to the duty to exercise reasonable care in the custody and preservation of such Property. Lender shall have no duty to take any steps necessary to preserve the rights of Debtor against prior parties, or to initiate any action to protect against the possibility of decline in the market value of the Property or proceeds. Lender shall not be obligated to take any action with respect to the Property or proceeds requested by Debtor unless such request is made in writing, and then only if Lender determines that the requested actions would not jeopardize the value of the Property as security for the Obligations. Lender may at any time deliver the Property, or any part thereof, to Debtor, and the receipt thereof by Debtor shall be a complete and full acquittance of the Property so delivered, and Lender shall thereafter be discharged from any liability or responsibility therefor.

8. Events of Default. The occurrence of any Event of Default as defined in the Credit Agreement shall constitute an Event of Default hereunder.

9. Remedies. Upon the occurrence of any Event of Default, Lender shall have the right to exercise all rights and remedies available to it at law or in equity or otherwise provided under the

Note and pursuant to any other documents executed and delivered in connection with this transaction.

10. Costs, Expenses and Attorneys' Fees. All payments, advances, charges, costs and expenses, including reasonable attorneys' fees, made or incurred by Lender in exercising any right, power or remedy conferred by this Agreement or in the enforcement thereof shall be paid to Lender by Debtor immediately upon demand, together with interest at the default rate of interest as defined in the Note.

11. Miscellaneous. Presentment, protest, notice of protest, notice of dishonor, notice of nonpayment and notice of acceptance of this Agreement are hereby waived. Any right to direct the application of payments or security for the Obligations and any right to require proceedings against others or to require exhaustion of security are waived. Consent to extensions, forbearances or alterations of the terms of indebtedness, the release or substitution of security, and the release of guarantors is given with respect to the Property and all proceeds subject to this Agreement. Until all indebtedness shall have been paid in full, Debtor shall have no right to subrogation or contribution, and Debtor hereby waives any benefit of or any right to participate in any Property, proceeds or other security whatsoever now or hereafter held by Lender. Capitalized terms not otherwise defined herein shall have those meanings assigned to them in the Security Instrument.

12. Successors and Assigns. This Agreement shall inure to the benefit of Lender and its successors and assigns and shall be binding upon Debtor and its successors and assigns; provided, however, that Debtor shall not assign its rights or obligations under this Agreement without the prior written consent of Lender in its sole discretion.

13. Arkansas Law Applicable. This Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas.

14. Severability of Provisions. If any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or any remaining provisions of this Agreement.

15. JURY WAIVER. DEBTOR HEREBY WAIVES DEBTOR'S RIGHT TO A JURY TRIAL IN THE EVENT OF ANY DISPUTE OR LITIGATION ARISING HEREUNDER OR UNDER ANY RELATED DOCUMENTS EXECUTED IN CONNECTION HEREWITH.

*[This Space Intentionally Left Blank; Signatures to Follow]*

[Pledge and Security Agreement Signature Page]

IN WITNESS WHEREOF, the Debtor has executed this Pledge and Security Agreement as of the date set forth in the preface.

"Debtor"

M & M Holding, Inc.

By: [Signature]

Title: President

Davis Trailer & Equipment, Inc.

By: [Signature]

Title: President

M&M Real Estate, LLC

By: [Signature]

Title: Member

EXHIBIT A

DESCRIPTION OF COLLATERAL

All of the rights, title and interest, whether now existing or hereafter acquired, of Debtor in, to and under the following described property:

1. All personal property of whatever nature which is owned by Debtor, including, without limitation, all furnishings, fixtures, equipment, inventory, goods, accounts receivable, deposit accounts, cash accounts, proceeds, cash proceeds, collateral, chattel paper, health-care-insurance receivables, electronic chattel paper, manufactured homes, non-cash proceeds, software, tangible chattel paper, payment intangibles and general intangibles, as said terms are, when applicable, defined in the Arkansas Code Annotated;

2. All payment intangibles, including without limitation, all fees, income, rents, issues, profits, earnings, receipts, royalties and revenues which may accrue from the ownership and/or operation of that real and personal property which is owned and operated by Debtor;

3. Debtor's rights under all instruments, including without limitation, all insurance policies covering all real and personal property owned by Debtor along with all proceeds, loss payments, and premium refunds payable regarding same;

4. All electricity, gas, water and other utility rights of whatever nature relating to all property owned by Debtor;

5. All general intangibles, including without limitation:

a. causes of action, claims, compensation, and recoveries for any damage to, destruction of, or condemnation or taking of any real or personal property owned by Debtor, or for any conveyance in lieu thereof, whether direct or consequential, or for any damage or injury to any personal or real property owned by Debtor, or for any loss or diminution in value of any such property;

b. all leases and other agreements of every nature that accrue to Debtor or in which Debtor may have a pecuniary, operating, access or use right of every nature owned by the Debtor and all proceeds relating to the same; and

c. all refunds, rebates or credits associated with adjustments to real or personal property taxes and assessments charged against or allocable to all real or personal property owned by the Debtor;

d. any and all rights, powers, privileges, options and other benefits under and any proceeds payable pursuant to any management contract pertaining to the operation, administration and management of any and all real and/or personal property owned and operated by Debtor;

e. all service contracts, maintenance contracts and other contracts or agreements of every nature which effect or pertain to the administration, operation or management of any or all real and/or personal property owned by Debtor;

f. all construction contracts, construction inspection and management contracts and architectural contracts pertaining to the construction of any and all improvements owned or to be constructed by Debtor;

g. all governmental permits or licenses of every nature which pertain to the operation, management and administration of all personal and/or real property owned by Debtor including, without limitation, all certificates of authority, certificates of occupancy and related and unrelated certificates and permits;

6. All computer software owned by Debtor; and

7. All amendments and supplements to and renewals and extensions of any and all of the foregoing, whether now existing or hereafter entered into and all replacements, substitutions, products and proceeds from any and all of the foregoing.





**Charlie Daniels**  
**Arkansas Secretary of State**  
 Business and Commercial Services Division

Financing Statement - Initial

Date Filed: 9/17/2010 1:38 PM Page(s): 8

Filing ID : 40000019405023  
 Document ID : 793647001

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]  
**LAURA SHOOK 376-3800**

B. SEND ACKNOWLEDGMENT TO (Name and Address)

**104646**

**GILL ELROD RAGON OWEN & SHERMAN, P.A.**  
**425 W. CAPITOL AVE., STE. 3801**  
**LITTLE ROCK, AR 72201**

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

1a. ORGANIZATION'S NAME <b>M &amp; M HOLDING, INC.</b>					
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS <b>7609 ASHER AVENUE</b>		CITY <b>LITTLE ROCK</b>		STATE <b>AR</b>	POSTAL CODE <b>72204</b>
1d. SEE INSTRUCTIONS		ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION <b>INCORPORATIO</b>	1f. JURISDICTION OF ORGANIZATION <b>AR</b>	1g. ORGANIZATIONAL ID #, if any <b>5423</b>

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names**

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY		STATE	POSTAL CODE
2d. SEE INSTRUCTIONS		ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR(S)) - insert only one secured party name (3a or 3b)**

3a. ORGANIZATION'S NAME <b>DELTA TRUST &amp; BANK</b>					
OR	3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS <b>11700 CANTRELL ROAD</b>		CITY <b>LITTLE ROCK</b>		STATE <b>AR</b>	POSTAL CODE <b>72222</b>

**4. This FINANCING STATEMENT covers the following collateral:**

**ANY AND ALL COLLATERAL DESCRIBED IN THOSE CERTAIN PLEDGE AND SECURITY AGREEMENTS SECURING REPAYMENT OF THE \$1,795,000 AND THE \$1,100,000 PLEDGE AND SECURITY AGREEMENTS OF EVEN DATE HERewith, EXECUTED AND ENTERED INTO BY AND BETWEEN M & M HOLDING, INC. ("DEBTOR"), AND DELTA TRUST & BANK, AND/OR ITS SUCCESSORS AND ASSIGNS; SAID COLLATERAL INCLUDING BUT NOT LIMITED TO THE FOLLOWING:**

**1. ALL PERSONAL PROPERTY OF WHATEVER NATURE WHICH IS OWNED BY DEBTOR, INCLUDING, WITHOUT LIMITATION, ALL FURNISHINGS, FIXTURES, EQUIPMENT, INVENTORY, GOODS, ACCOUNTS RECEIVABLE, DEPOSIT ACCOUNTS, CASH ACCOUNTS, PROCEEDS, CASH PROCEEDS,**

5. ALTERNATIVE DESIGNATION [if applicable]	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for records) (or recorded) in the REAL ESTATE RECORDS. Attach Affidavit [if applicable]	7. Check to REQUEST SEARCH REPORT: (\$) on Debtor(s) [optional]		All Debtors	Debtor 1	Debtor 2	

**8. OPTIONAL FILER REFERENCE DATA**

**20100917133966647**

**EXHIBIT**  
**K**

**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a ORGANIZATION'S NAME  
**M & M HOLDING, INC.**

OR

9b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10 MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a ORGANIZATION'S NAME

OR

11b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

11c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

11d SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 11e TYPE OF ORGANIZATION 11f JURISDICTION OF ORGANIZATION 11g ORGANIZATIONAL ID #, if any  NONE

12.  ADDITIONAL SECURED PARTY'S or  ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a ORGANIZATION'S NAME

OR

12b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

12c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

13 This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing

14. Description of real estate

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest)

16. Additional collateral description

**COLLATERAL, CHATTEL PAPER, HEALTH-CARE-INSURANCE RECEIVABLES, ELECTRONIC CHATTEL PAPER, MANUFACTURED HOMES, NON-CASH PROCEEDS, SOFTWARE, TANGIBLE CHATTEL PAPER, PAYMENT INTANGIBLES AND GENERAL INTANGIBLES, AS SAID TERMS ARE, WHEN APPLICABLE, DEFINED IN THE ARKANSAS CODE ANNOTATED;**

**2. ALL PAYMENT INTANGIBLES, INCLUDING WITHOUT LIMITATION, ALL FEES, INCOME, RENTS, ISSUES, PROFITS, EARNINGS, RECEIPTS, ROYALTIES AND REVENUES WHICH MAY ACCRUE FROM THE OWNERSHIP AND/OR OPERATION OF THAT REAL AND PERSONAL PROPERTY WHICH**

17. Check only if applicable and check only one box.  
 Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.  
 Debtor is a TRANSMITTING UTILITY  
 Filed in connection with a Manufactured-Home Transaction — effective 30 years  
 Filed in connection with a Public-Finance Transaction — effective 30 years

**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9 NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a ORGANIZATION'S NAME  
**M & M HOLDING, INC.**

OR

9b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10 MISCELLANEOUS

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11a ORGANIZATION'S NAME

OR

11b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

11c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

11d **SEE INSTRUCTIONS** ADD LINED RE ORGANIZATION DEBTOR 11e TYPE OF ORGANIZATION 11f JURISDICTION OF ORGANIZATION 11g ORGANIZATIONAL ID #, if any  NONE

12  ADDITIONAL SECURED PARTY'S  ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a ORGANIZATION'S NAME

OR

12b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

12c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

13 This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing

14 Description of real estate

15 Additional collateral description:

**IS OWNED AND OPERATED BY DEBTOR;**

**3. DEBTOR'S RIGHTS UNDER ALL INSTRUMENTS, INCLUDING WITHOUT LIMITATION, ALL INSURANCE POLICIES COVERING ALL REAL AND PERSONAL PROPERTY OWNED BY DEBTOR ALONG WITH ALL PROCEEDS, LOSS PAYMENTS, AND PREMIUM REFUNDS PAYABLE REGARDING SAME;**

**4. ALL ELECTRICITY, GAS, WATER AND OTHER UTILITY RIGHTS OF WHATEVER NATURE RELATING TO ALL PROPERTY OWNED BY DEBTOR;**

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest)

17. Check only if applicable and check only one box.  
 Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.  
 Debtor is a TRANSMITTING UTILITY  
 Filed in connection with a Manufacture-Home Transaction — effective 30 years  
 Filed in connection with a Public-Finance Transaction — effective 30 years

**UCC FINANCING STATEMENT ADDENDUM**

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9a. ORGANIZATION'S NAME <b>M &amp; M HOLDING, INC.</b>		
OR	9b. INDIVIDUAL'S LAST NAME	FIRST NAME
		MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

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11a. ORGANIZATION'S NAME				
OR	11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
11c. MAILING ADDRESS	CITY		STATE	POSTAL CODE
11d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

12.  ADDITIONAL SECURED PARTY'S or  ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME				
OR	12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS	CITY		STATE	POSTAL CODE
COUNTRY				

13. This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing

14. Description of real estate:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest)

16. Additional collateral description:

**5. ALL GENERAL INTANGIBLES, INCLUDING WITHOUT LIMITATION:**

**A. CAUSES OF ACTION, CLAIMS, COMPENSATION, AND RECOVERIES FOR ANY DAMAGE TO, DESTRUCTION OF, OR CONDEMNATION OR TAKING OF ANY REAL OR PERSONAL PROPERTY OWNED BY DEBTOR, OR FOR ANY CONVEYANCE IN LIEU THEREOF, WHETHER DIRECT OR CONSEQUENTIAL, OR FOR ANY DAMAGE OR INJURY TO ANY PERSONAL OR REAL PROPERTY OWNED BY DEBTOR, OR FOR ANY LOSS OR DIMINUTION IN VALUE OF ANY SUCH PROPERTY;**

17. Check only if applicable and check only one box

Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box

- Debtor is a TRANSMITTING UTILITY
- Filed in connection with a Manufacture-Home Transaction -- effective 30 years
- Filed in connection with a Public-Finance Transaction -- effective 30 years

**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME			
M & M HOLDING, INC.			
OR	9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only org name (11a or 11b) - do not abbreviate or combine names

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OR	11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
11c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
11d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any	<input type="checkbox"/> NCNE

12.  ADDITIONAL SECURED PARTY'S or  ASSIGNOR S/P'S NAME - insert only org name (12a or 12b)

12a. ORGANIZATION'S NAME					
OR	12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
12c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing

14. Description of real estate:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest)

16. Additional collateral description:

**B. ALL LEASES AND OTHER AGREEMENTS OF EVERY NATURE THAT ACCRUE TO DEBTOR OR IN WHICH DEBTOR MAY HAVE A PECUNIARY, OPERATING, ACCESS OR USE RIGHT OF EVERY NATURE OWNED BY THE DEBTOR AND ALL PROCEEDS RELATING TO THE SAME; AND**

**C. ALL REFUNDS, REBATES OR CREDITS ASSOCIATED WITH ADJUSTMENTS TO REAL OR PERSONAL PROPERTY TAXES AND ASSESSMENTS CHARGED AGAINST OR ALLOCABLE TO ALL REAL OR PERSONAL PROPERTY OWNED BY THE DEBTOR;**

**D. ANY AND ALL**

17. Check only if applicable and check only one box

Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box

Debtor is a TRANSMITTING UTILITY

Filed in connection with a Manufactured-Home Transaction -- effective 30 years

Filed in connection with a Public-Finance Transaction -- effective 30 years

**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

**9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT**

9a ORGANIZATION'S NAME			
OR <b>M &amp; M HOLDING, INC.</b>			
9b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME/SUFFIX	

10 MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names**

11a ORGANIZATION'S NAME				
OR				
11b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
11c MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
11d SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	11e TYPE OF ORGANIZATION	11f JURISDICTION OF ORGANIZATION	11g ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

**12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)**

12a ORGANIZATION'S NAME				
OR				
12b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
12c MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  future filing.  
 14. Description of real estate

16. Additional collateral description:  
**RIGHTS, POWERS, PRIVILEGES, OPTIONS AND OTHER BENEFITS UNDER AND ANY PROCEEDS PAYABLE PURSUANT TO ANY MANAGEMENT CONTRACT PERTAINING TO THE OPERATION, ADMINISTRATION AND MANAGEMENT OF ANY AND ALL REAL AND/OR PERSONAL PROPERTY OWNED AND OPERATED BY DEBTOR;**  
  
**E.ALL SERVICE CONTRACTS, MAINTENANCE CONTRACTS AND OTHER CONTRACTS OR AGREEMENTS OF EVERY NATURE WHICH EFFECT OR PERTAIN TO THE ADMINISTRATION, OPERATION OR MANAGEMENT OF ANY OR ALL REAL AND/OR PERSONAL PROPERTY OWNED BY DEBTOR;**

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest).

17. Check only if applicable and check only one box.  
 Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.  
 Debtor is a TRANSMITTING UTILITY  
 Filed in connection with a Manufactured-Home Transaction — effective 30 years  
 Filed in connection with a Public-Finance Transaction — effective 30 years

**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

OR

9a ORGANIZATION'S NAME  
**M & M HOLDING, INC.**

9b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

OR

11a ORGANIZATION'S NAME

11b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

11c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

11d SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 11e TYPE OF ORGANIZATION 11f JURISDICTION OF ORGANIZATION 11g ORGANIZATIONAL ID #, if any  NONE

12.  ADDITIONAL SECURED PARTY'S or  ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

OR

12a ORGANIZATION'S NAME

12b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

12c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing.

14. Description of real estate.

16. Additional collateral description

**F.ALL CONSTRUCTION CONTRACTS, CONSTRUCTION INSPECTION AND MANAGEMENT CONTRACTS AND ARCHITECTURAL CONTRACTS PERTAINING TO THE CONSTRUCTION OF ANY AND ALL IMPROVEMENTS OWNED OR TO BE CONSTRUCTED BY DEBTOR;**

**G.ALL GOVERNMENTAL PERMITS OR LICENSES OF EVERY NATURE WHICH PERTAIN TO THE OPERATION, MANAGEMENT AND ADMINISTRATION OF ALL PERSONAL AND/OR REAL PROPERTY OWNED BY DEBTOR INCLUDING, WITHOUT LIMITATION, ALL CERTIFICATES OF AUTHORITY, CERTIFICATES OF OCCUPANCY AND RELATED**

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest).

17. Check only if applicable and check only one box.  
 Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box  
 Debtor is a TRANSMITTING UTILITY  
 Filed in connection with a Manufacture-Home Transaction -- effective 30 years  
 Filed in connection with a Public-Finance Transaction -- effective 30 years



**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME			
M & M HOLDING, INC.			
OR	9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only, give name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME				
OR	11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
11c. MAILING ADDRESS		CITY	STATE	POSTAL CODE COUNTRY
11d. SEE INSTRUCTIONS	ADD'l INFO RE ORGANIZATION/DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID#, if any <input type="checkbox"/> NONE

12.  ADDITIONAL SECURED PARTY'S  ASSIGNOR S/P'S NAME - insert only, give name (12a or 12b)

12a. ORGANIZATION'S NAME				
OR	12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS		CITY	STATE	POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing

14. Description of real estate:

16. Additional collateral description:

**AND UNRELATED CERTIFICATES AND PERMITS;**

**6. ALL COMPUTER SOFTWARE OWNED BY DEBTOR; AND**

**7. ALL AMENDMENTS AND SUPPLEMENTS TO AND RENEWALS AND EXTENSIONS OF ANY AND ALL OF THE FOREGOING, WHETHER NOW EXISTING OR HEREAFTER ENTERED INTO AND ALL REPLACEMENTS, SUBSTITUTIONS, PRODUCTS AND PROCEEDS FROM ANY AND ALL OF THE FOREGOING.**

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

17. Check only if applicable and check only one box.

Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.

Debtor is a TRANSMITTING UTILITY

Filed in connection with a Manufactured-home Transaction — effective 30 years

Filed in connection with a Public-Finance Transaction — effective 30 years



5277



Mark Martin  
Arkansas Secretary of State  
Business and Commercial Services Division

Financing Statement - Continuation Filing

Date Filed: 8/13/2015 11:26 AM Page(s): 1

Filing ID : 40000114002335  
Document ID : 6330577001

### UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

115589

KIM FARRER  
PO BOX 7009 501 MAIN  
PINE BLUFF, AR 71611

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER  
**40000019405023**

1b.  This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS  
Filer: attach Amendment Addendum (Form UCC3Ae) and provide Debtor's name in item 13

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement
3.  **ASSIGNMENT** (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c, and name of Assignor in item 9  
For partial assignment, complete items 7 and 9, and also indicate affected collateral in item 8
4.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5.  **PARTY INFORMATION CHANGE.**  
Check one of these two boxes:  Debtor or  Secured Party of record  
**AND** Check one of these three boxes to:  
 CHANGE name and/or address: Complete item 6a or 6b, and item 7a or 7b and item 7c  
 ADD name: Complete item 7a or 7b, and item 7c  
 DELETE name: Give record name to be deleted in item 6a or 6b

6. **CURRENT RECORD INFORMATION** Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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7. **CHANGED OR ADDED INFORMATION:** Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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8.  **COLLATERAL CHANGE:** Also check one of these four boxes:  ADD collateral  DELETE collateral  RESTATE covered collateral  ASSIGN collateral  
Indicate collateral:

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:** Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)  
If this is an Amendment authorized by a DEBTOR, check here  and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA



Mark Martin  
Arkansas Secretary of State  
Business and Commercial Services Division

Financing Statement - Assignment Filing

Date Filed: 8/28/2017 10:00 AM Page(s): 1

Filing ID : 40000154484919  
Document ID : 9026607001

### UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional) <b>A. HUTCHINGS</b>
B. E-MAIL CONTACT AT FILER (optional)
C. SEND ACKNOWLEDGMENT TO: (Name and Address) <b>MIDWEST SERVICING 4, LLC 3144 S. WINTON RD. ROCHESTER, NY 14623</b>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER  
**40000019405023, filed 9/17/2010 w/Arkansas Sec. of State**

1b.  This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS  
Filer attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3.  ASSIGNMENT (full or partial) Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 8  
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5.  PARTY INFORMATION CHANGE:

Check one of these two boxes.

AND Check one of these three boxes to.

This Change affects  Debtor or  Secured Party of record

CHANGE name and/or address. Complete item 6a or 6b, and item 7a or 7b and item 7c

ADD name. Complete item 7a or 7b, and item 7c

DELETE name. Give record name to be deleted in item 6a or 6b

6. CURRENT RECORD INFORMATION. Complete for Party Information Change - provide only one name (6a or 6b)

6a ORGANIZATION'S NAME

OR 6b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

7a ORGANIZATION'S NAME

**COMMERCIAL LOAN INVESTMENT X LLC**

OR 7b INDIVIDUAL'S SURNAME	INDIVIDUAL'S FIRST PERSONAL NAME	INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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7c MAILING ADDRESS <b>3144 S. WINTON RD.</b>	CITY <b>ROCHESTER</b>	STATE <b>NY</b>	POSTAL CODE <b>14623</b>	COUNTRY <b>USA</b>
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8.  COLLATERAL CHANGE. Also check one of these four boxes:  ADD collateral  DELETE collateral  RESTATE covered collateral  ASSIGN collateral  
Indicate collateral.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)

If this is an Amendment authorized by a DEBTOR, check here  and provide name of authorizing Debtor

9a ORGANIZATION'S NAME

**SIMMONS BANK, successor by merger to Delta Trust & Bank**

OR 9b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA  
**29011-19**

DEBTOR: THE PLANT OUTLET OF CONWAY, INC.



Mark Martin  
Arkansas Secretary of State  
Business and Commercial Services Division

Financing Statement - Amendment Filing

Date Filed: 8/28/2017 10:00 AM Page(s): 1

Filing ID : 40000154498853  
Document ID : 9026607002

### UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)  
A. HUTCHINGS

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

MIDWEST SERVICING 4, LLC  
3144 S. WINTON RD.  
ROCHESTER, NY 14623

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER  
40000019405023, filed 9/17/2010 w/Arkansas Sec. of State

1b.  This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS  
Filer attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2.  TERMINATION Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement
3.  ASSIGNMENT (full or partial). Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9  
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8
4.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5.  PARTY INFORMATION CHANGE:

Check one of these two boxes AND Check one of these three boxes to

This Change affects  Debtor or  Secured Party of record  CHANGE name and/or address Complete item 8a or 8b, and item 7a or 7b and item 7c  ADD name Complete item 7a or 7b, and item 7c  DELETE name Give record name to be deleted in item 8a or 8b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (8a or 8b)

8a ORGANIZATION'S NAME

OR

8b INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

7a ORGANIZATION'S NAME  
M&M REAL ESTATE, LLC

OR

7b INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

7c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

P.O. BOX 4129 LITTLE ROCK AR 72214 USA

8.  COLLATERAL CHANGE: Also check one of these four boxes  ADD collateral  DELETE collateral  RESTATE covered collateral  ASSIGN collateral

Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)  
If this is an Amendment authorized by a DEBTOR, check here  and provide name of authorizing Debtor:

9a ORGANIZATION'S NAME  
COMMERCIAL LOAN INVESTMENT X LLC

OR

9b INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

10. OPTIONAL FILER REFERENCE DATA  
29011-19 DEBTOR: THE PLANT OUTLET OF CONWAY, INC.



John Thurston  
Arkansas Secretary of State  
Business and Commercial Services Division

Financing Statement - Assignment Filing

Date Filed: 1/21/2020 10:00 AM Page(s): 1

Filing ID : 40000200841059  
Document ID : 12194754001

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional) <b>Kathy Sabol (330) 872-0918 Ext. 3246</b>
B. E-MAIL CONTACT AT FILER (optional) <b>kathy.sabol@cadleco.com</b>
C. SEND ACKNOWLEDGMENT TO: (Name and Address)  <div style="border: 1px solid black; padding: 5px; width: fit-content;"> <p>SCR Joint Venture, L.P. 100 North Center Street Newton Falls, OH 44444</p> </div>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER  
**40000019405023 filed 09/17/10 with SOS, AR**

1b.  This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS  
Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3.  ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9  
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5.  PARTY INFORMATION CHANGE:  
Check one of these two boxes:  Debtor or  Secured Party of record AND Check one of these three boxes to:  
CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c  
ADD name: Complete item 7a or 7b, and item 7c  
DELETE name: Give record name to be deleted in item 6a or 6b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME  
**SCR Joint Venture, L.P.**

OR

7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

7c. MAILING ADDRESS

<b>100 North Center Street</b>	CITY <b>Newton Falls</b>	STATE <b>OH</b>	POSTAL CODE <b>44444</b>	COUNTRY <b>USA</b>
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8.  COLLATERAL CHANGE: Also check one of these four boxes:  ADD collateral  DELETE collateral  RESTATE covered collateral  ASSIGN collateral  
Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)  
If this is an Amendment authorized by a DEBTOR, check here  and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME  
**Commercial Loan Investments X LLC**

OR

9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA:  
**Debtor: M & M Real Estate LLC Our File No. 0S500001**



**John Thurston**  
**Arkansas Secretary of State**  
 Business and Commercial Services Division

Financing Statement - Continuation Filing

Date Filed: 5/18/2020 10:00 AM Page(s): 1

Filing ID : 40000207698783  
 Document ID : 12736014001

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional) <b>Kathy Sabol (330) 872-0918 Ext. 3246</b>
B. E-MAIL CONTACT AT FILER (optional) <b>kathy.sabol@cadleco.com</b>
C. SEND ACKNOWLEDGMENT TO: (Name and Address) <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <b>SCR Joint Venture, L.P.</b>  <b>100 North Center Street</b>  <b>Newton Falls, OH 44444</b> </div>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER <b>40000019405023 filed 09/17/10 with SOS, AR</b>	1b. <input type="checkbox"/> This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13
--	---

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement
3.  **ASSIGNMENT (full or partial):** Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9  
 For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8
4.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5.  **PARTY INFORMATION CHANGE:**  
 Check one of these two boxes:  Debtor or  Secured Party of record  
 AND Check one of these three boxes to:  CHANGE name and/or address: Complete item 6a or 6b, and item 7a or 7b and item 7c  ADD name: Complete item 7a or 7b, and item 7c  DELETE name: Give record name to be deleted in item 6a or 6b

6. **CURRENT RECORD INFORMATION:** Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME				
OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

7. **CHANGED OR ADDED INFORMATION:** Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME				
OR	7b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
				<b>USA</b>

8.  **COLLATERAL CHANGE:** Also check one of these four boxes:  ADD collateral  DELETE collateral  RESTATE covered collateral  ASSIGN collateral  
 Indicate collateral:

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:** Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)  
 If this is an Amendment authorized by a DEBTOR, check here  and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME <b>SCR Joint Venture, L.P.</b>				
OR	9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

10. **OPTIONAL FILER REFERENCE DATA:**  
**Debtor: M & M Real Estate LLC Our File No. 0S500001**

2010058474 Received: 9/22/2010 8:20:11 AM  
Recorded: 09/22/2010 08:32:47 AM Filed &  
Recorded in Official Records of PAT O'BRIEN,  
PULASKI COUNTY CIRCUIT/COUNTY CLERK  
Fees \$55.00

2

This Instrument Prepared By:  
Gill Elrod Ragon Owen & Sherman, P.A.  
425 West Capitol Ave., Suite 3801  
Little Rock, Arkansas 72201

1315



**ABSOLUTE ASSIGNMENT OF LEASES AND RENTS**

THIS ABSOLUTE ASSIGNMENT OF LEASES AND RENTS (the "Assignment") is entered into as of this 17<sup>th</sup> day of September 2010, by and between M&M REAL ESTATE, LLC ("Assignor"), to and in favor of DELTA TRUST & BANK ("Assignee").

WHEREAS, Assignor has executed and delivered to Assignee that certain \$1,100,000 Secured Open-End Promissory Note and that certain \$1,795,000 Secured Term Promissory Note of even date herewith (said notes, together with all extensions, renewals, modifications, consolidations, substitutions, replacements, restatements and increased additional advances evidenced by other written documents or otherwise thereof being collectively referred to herein as the "Note"); and

WHEREAS, as security for the Note, Assignor has executed and delivered to Assignee a Mortgage, Security Agreement and Assignment of Rents, an Indemnification Agreement and a Secured Loan Agreement, each of even date herewith (and all other documents referenced therein or otherwise pertaining to this transaction together with each amendment thereto and modification thereof, collectively, the "Credit Agreement") which encumbers that real property as is more fully described on EXHIBIT A attached hereto (the "Mortgaged Property") and which otherwise sets forth the manner in which principal under the Note shall be disbursed; and

WHEREAS, as further security for the Note, Assignee is requiring that Assignor assign all of Assignor's right, title and interest in, to and under all leases, contracts, agreements, permits and rents associated with Assignor's operation and ownership of the Mortgaged Property; and

WHEREAS, all capitalized terms not specifically defined herein shall have the meanings given to them in the Secured Loan Agreement executed by mortgagor as of an even date herewith (the "Secured Loan Agreement");

NOW, THEREFORE, in order to secure the payment of the principal of, and interest on, the Note and to secure the performance and observance by Assignor of every covenant and condition contained herein, in the Note and in the Credit Agreement and in consideration of the agreement of Assignee to loan to Assignor the principal sum evidenced by the Note, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. Assignment of Leases, Rents, Contracts, Permits and Agreements. Assignor does hereby sell, assign, transfer, convey and set over unto Assignee, its successors and assigns, absolutely, completely and unconditionally, all of the right, title and interest of Assignor in, to and under all contracts and agreements relating to the Mortgaged Property and all proceeds and cash flows relating thereto including without limitation the following described contracts and agreements (collectively, the "Contracts"):

LTD\DELTA TRUST\M&M\5434 Real Estate Loan\Assignment of Rents.DOC

**EXHIBIT**  
**L**



- (a) Any and all leases or agreements for the use or occupancy of the whole or any part of the Mortgaged Property, whether such leases and agreements are now or at any time hereafter existing (collectively, the "Leases"), together with all amendments and supplements to and renewals and extensions of the Leases at any time made;
- (b) All rents, earnings, issues, income and profits arising from the Mortgaged Property and/or from said Leases and all other sums due or to become due under and pursuant thereto, including but not limited to security deposits, pet deposits, prepaid rent or other monies paid to or deposited with Assignor pursuant to the Leases;
- (c) Any and all proceeds payable under any policy of insurance covering loss of rents for any cause;
- (d) Any and all rights, powers, privileges, options and other benefits of Assignor under and any proceeds payable pursuant to any management contract pertaining to the operation, administration and management of the Mortgaged Property;
- (e) All service contracts, maintenance contracts and other contracts or agreements of every nature that affect or pertain to the administration, operation or management of the Mortgaged Property;
- (f) All construction contracts, construction inspection and management contracts and architectural contracts pertaining to the construction of any and all improvements to the Mortgaged Property;
- (g) To the extent assignable, all governmental permits or licenses of every nature which pertain to the operation, management and administration of the Mortgaged Property including, without limitation, all certificates of need or similar governmental authority associated with the operation of assisted living or related facilities;
- (h) Any and all rights, powers, privileges, options and other benefits of Assignor as lessor under the Leases, or as a party to the Contracts, including, but not by way of limitation:
  - (1) The immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, condemnation awards, moneys, deposits and security payable or receivable under the Leases or the Contracts or pursuant to any of the provisions thereof whether as rent or otherwise;
  - (2) The right to pursue and collect any claim in bankruptcy proceedings of any tenant;
  - (3) The right to accept or reject any offer made by a tenant pursuant to its Lease to purchase the Mortgaged Property or any part thereof and any other property subject to the Lease, as therein provided and to perform all other necessary or appropriate acts with respect to such purchases as agent and attorney-in-fact for Assignor;
  - (4) The right to make all waivers and agreements, to give and receive all notices, consents and releases, and to take such action upon the happening of a default under any Lease or Contract, as Assignor might have taken, including the right to commence, conduct and

consummate proceedings at law or in equity as shall be permitted under any provision of any lease or by law;

(5) To do any and all other things whatsoever which the Assignor is or may become entitled to do under or by virtue of the Leases, the Contracts or any of them; and

(i) All sale and purchase contracts, property management contracts, and other agreements of every nature which pertain to the operation of that business that is located on the Mortgaged Property.

2. Assignment Given for Security. This Assignment is made and given as security for, and shall remain in full force and effect until (a) the payment in full of all principal, and interest on the Note and the performance of all other Obligations (as defined in the Secured Loan Agreement) and (b) the express written release of this Assignment of record by an instrument executed by Assignee. The terms and conditions of this Assignment are cumulative to, and not in substitution of, the terms and conditions of the Credit Agreement and the terms and conditions hereof shall prevail in the event of any inconsistency.

3. No Assumption of Liability. Nothing herein shall be interpreted as constituting or comprising an assumption by Assignee of any of the Assignor's liabilities or obligations of any nature as may be set forth under the Contracts. Such obligations can and will only be assumed by Assignee upon Assignee's written confirmation of such.

4. Warranties and Representations. Assignor warrants and represents to Assignee and Assignee's successors and assigns that:

- (a) Assignor has good right and authority to make and enter into this Assignment;
- (b) Assignor has not heretofore alienated, assigned, pledged or otherwise disposed of or encumbered the Contracts or any portions thereof, or any of the sums due or to become due thereunder or otherwise assigned hereunder;
- (c) Assignor has not performed any acts or executed any other instruments which might prevent Assignee from deriving the full benefits of any of the terms and conditions of this Assignment or which would limit Assignee in enjoying such benefits;
- (d) Assignor has not accepted, anticipated or collected any income or benefits due or to become due under the Contracts for any period subsequent to the date of this agreement;
- (e) Assignor has not executed or granted any amendment or modification of any of the Contracts, either orally or in writing, which would modify the provisions of the Contracts in that form as has been previously submitted to Assignee;
- (f) There is no default under any Contract now existing, and no event has occurred and is continuing that, with the lapse of time or the giving of notice or both, would constitute an event of default under any Contract.



5. Protective Covenants. Assignor hereby covenants and agrees:

- (a) Promptly to observe, perform and discharge the obligations and conditions of this Assignment and all other obligations and agreements as contained in the Note and in all other documents executed in connection therewith or otherwise pertaining thereto;
- (b) To enforce the performance of each and every obligation, term, covenant, condition and agreement to be performed by the obligors under all Contracts;
- (c) To appear in and defend any action or proceeding arising under or in any manner connected with the Contracts, or the obligations, duties or liabilities of Assignor under the Contracts and upon request by Assignee, to do so in the name of and on behalf of the Assignee, but at the expense of the Assignor;
- (d) Not to cancel or accept the surrender of any Contract except in the ordinary course of business;
- (e) Not to reduce any payment obligations due under any Contract except in the ordinary course of business or accept payments under any Contract more than one month in advance of their due dates, provided however, this covenant shall not apply to payments received in connection with lease terminations or modifications;
- (f) Not to change, amend, alter or modify any Contract or any term or provision thereof, or grant any concession in connection therewith except in the ordinary course of business;
- (g) Not to consent to the release of any obligations owed by any party or guarantor of the Contracts except in the ordinary course of business;
- (h) Not to assign, pledge, encumber or otherwise transfer any Contract or Assignor's rights thereunder except to Assignee;
- (i) To execute any other documents as may be reasonably required by Assignee in furtherance of the goals and intentions of this Assignment.

6. Further Assurance. Assignor also covenants and agrees that Assignor will, upon the request of Assignee, execute and deliver to Assignee such further reasonable instruments and do and perform such other reasonable acts and things as Assignee may deem reasonably necessary or appropriate to make this Assignment and the various covenants of Assignor herein contained effective and to more effectively vest in and secure to Assignee the sums due or hereafter to become due under the Leases or the Contracts. This covenant and agreement shall include, without limitation, the execution of such additional assignments as shall be deemed reasonably necessary by Assignee to effectively vest in and secure to Assignee all rents, income and profits from any and all Leases or the Contracts. Assignor further agrees that it will, from time to time, upon demand therefor, deliver to Assignee an executed counterpart of each and every Lease or Contract then pertaining to all or any portion of the Mortgaged Property.

7. Events of Default. The occurrence of an Event of Default, as defined in the Credit Agreement, shall constitute an Event of Default hereunder.

8. Power of Attorney. Assignor hereby consents to and irrevocably authorizes and directs the tenants under the Leases and any successor to the interest of said tenants, from and after an Event of Default, upon demand and notice from Assignee of Assignee's right to receive the rents and other amounts under such Leases, to pay to Assignee the rents and other amounts due or to become due under the Leases, and said tenants shall have the right to rely upon such demand and notice from Assignee and shall pay such rents and other amounts to Assignee without any obligation or right to determine the actual existence of any default or event claimed by Assignee as the basis for Assignee's right to receive such rents and other amounts, notwithstanding any notice from or claim of Assignor to the contrary. Assignor shall have no right to claim against any tenant for any such rents and other amounts so paid by a tenant to Assignee.

Notwithstanding the foregoing provisions which shall be construed as making and establishing a present and absolute transfer and assignment of the Leases and the rents, earnings, issues, income and profits arising therefrom, so long as no Event of Default shall exist under the Note, this Assignment, or the Credit Agreement and so long as no event shall exist which by lapse of time or service or notice, or both, has or would become an Event of Default thereunder or hereunder, Assignor shall have the right and license to occupy the Mortgaged Property as landlord or otherwise and to collect, use, and enjoy the rents, issues and profits and other sums payable under and by virtue of any Lease assigned hereby, but, as to such rents, issues and profits and other sums, only as the same become due under the provisions of such Lease, to enforce the covenants of the Leases and otherwise conduct its everyday business activities as Landlord of the Mortgaged Property.

Upon the occurrence of an Event of Default hereunder or under the Credit Agreement or under the Note, Assignee, at its option, shall have the complete right, power and authority to do any or all of the following:

- (a) To terminate the right and license granted to Assignor in the paragraph immediately preceding and thereafter, without notice to Assignor and without taking possession of the Mortgaged Property, to demand, collect and receive and sue for the rents, proceeds and other sums payable under the Leases and the Contracts and, after deducting all necessary and proper costs and expenses (including attorneys' fees) of collection as determined by Assignee, to apply the net proceeds thereof upon any indebtedness secured hereby;
- (b) To declare all sums secured hereby immediately due and payable, and, at its option, to exercise all of the rights and remedies contained herein, in the Note and in the Credit Agreement;
- (c) Without regard to the adequacy of the security, with or without process of law, personally or by agent or attorney, or under the Credit Agreement, or by a receiver to be appointed by court, then and thereafter to enter upon, take and maintain possession of and operate the Mortgaged Property, or any part thereof, together with all documents, books, records, papers, and accounts relating thereto and hold, operate, manage and control the Mortgaged Property, or any part thereof, as fully and to the same extent as Assignor could do if in possession and in such event, without limitation and at the expense of Assignor, from time to time, cause to be made all necessary or proper repairs, renewals, replacements, useful alterations, additions, betterments and improvements to the Mortgaged Property, or any part thereof, as Assignee deems judicious, and pay taxes, assessments and proper

charges on the Mortgaged Property, or any part thereof, and insure and reinsure the same, and lease the Mortgaged Property, or any part thereof, for such times and on such terms as Assignee deems desirable, including leases for terms expiring beyond the maturity of the indebtedness secured by the Credit Agreement, and cancel any lease or sublease for any cause or on any ground which would entitle Assignor to cancel the same.

- (d) To terminate any management contract or any other contract or agreement between Assignor and the manager of all or any portion of the Mortgaged Property (the "Manager"),

Should Assignee exercise the rights granted herein upon the occurrence of an Event of Default hereunder or under the Note or Credit Agreement, then Assignee may, at its option, credit the net amount of income which Assignee may receive by virtue of this Assignment and from the Mortgaged Property to any and all amounts due or owing to Assignee under the terms and provisions of the Note, this Assignment and the Credit Agreement, which net income shall include (a) the just and reasonable compensation for the services of Assignee, its attorneys and agents in connection with the operation, management and control of the Mortgaged Property and the conduct of the business thereof, and (b) such further sums as may be sufficient to indemnify Assignee from and against any liability, loss or damage on account of any matter or thing done in good faith relating to the Mortgaged property, leases or contracts pursuant to the rights and powers of Assignee hereunder. The balance of such net income shall be released to or upon the order of Assignor. The manner of the application of such net income and the item that shall be credited shall be within the sole discretion of Assignee.

The acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, neither prior to entry upon and taking possession of the Mortgaged Property by Assignee nor thereafter, be deemed or construed to constitute Assignee as a Mortgagee in possession or in any event to impose any obligation whatsoever upon Assignee to appear in or defend any action or proceeding relating to the Leases, the Contracts or the Mortgaged Property, or to take any action hereunder, or to expend any money or incur any expenses, or perform or discharge any obligation, duty or liability under the Leases or the Contracts, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any tenant and not assigned and delivered to Assignee or render Assignee liable in any way for any injury or damage to person or property sustained by any person, firm or corporation in or about the Mortgaged Property.

Assignor agrees that neither the collection of rents and the application thereof as provided for herein nor the entry upon and taking of possession of the Mortgaged Property, or any part thereof, by Assignee shall cure or waive any default or waive, modify or affect any notice of default under the Note or the Credit Agreement, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time upon any subsequent default.

9. Rights Cumulative. The rights and remedies of Assignee hereunder are cumulative and not in lieu of, but are in addition to, any rights or remedies which Assignee shall have under the Note, the Credit Agreement or at law or in equity, and such rights and remedies may be exercised by Assignee either prior to, simultaneously with, or subsequent to, any action taken hereunder. Such rights and remedies of Assignee may be exercised from time to time and as often as such exercise is deemed expedient by Assignee in its absolute discretion, and the failure of Assignee to avail itself of any of the terms, provisions and conditions of this Assignment or any rights granted herein

for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any rights under the terms hereof.

The right of Assignee to collect and receive the rents assigned hereunder or to take possession of the Mortgaged Property, or to exercise any of the rights of powers herein granted to Assignee shall, to the extent not prohibited by law, also extend to the period from and after the filing of any suit to foreclose the lien of the Credit Agreement, including any period allowed by law for the redemption of the Mortgaged Property after any foreclosure sale.

10. Indemnification. Assignor agrees to indemnify and hold Assignee harmless of and from and against any and all liability, loss, damage or expense, which Assignee may or might incur under or by reason of this Assignment, and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on the part of Assignee to perform or discharge any of the terms, covenants or agreements contained in the Leases or the Contracts but for the exercising of Assignee's rights hereunder which acts constitute gross negligence or willful misconduct. Should Assignee incur any such liability, loss or damage under or by reason of this Assignment, or in the defense against any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon at the rate provided for in the Note subsequent to default, shall be secured by this Assignment and by the Credit Agreement, and Assignor shall reimburse Assignee therefor immediately upon demand, and upon failure of Assignor so to do, Assignee may declare all sums secured hereby immediately due and payable.

11. Subordination of Management Contract. Assignor does hereby agree to subordinate to the debt service payable under and pursuant to the Note all fees that the Assignor or its affiliates, agents or employees may be entitled to receive in connection with the operation, management or administration of the Mortgaged Property. Assignor further agrees that should an Event of Default occur which is continuing, Assignee shall have the right, without cause or further compensation payable, to terminate Assignor's right to provide management, leasing, administrative or other services with respect to the mortgaged property.

12. Miscellaneous. This Assignment shall be governed by the laws of the State of Arkansas. This Assignment shall be assignable by Assignee and all representations, warranties, obligations, covenants, powers and rights herein contained shall be binding upon, and inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

13. WAIVER OF JURY TRIAL RIGHT. ASSIGNOR HEREBY WAIVES ASSIGNOR'S RIGHT TO A JURY TRIAL IN THE EVENT OF ANY DISPUTE OR LITIGATION ARISING HEREUNDER OR UNDER ANY RELATED DOCUMENTS EXECUTED IN CONNECTION HEREWITH.

14. Severability. In the event that any one or more of the provisions contained in this Assignment or in any other loan document executed in connection herewith shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Assignment or any other Loan Document executed in connection herewith, and in lieu of such invalid, illegal or unenforceable provision there shall be added automatically as part of this Assignment or any other Loan Document executed in connection herewith a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and unenforceable thereafter.

[Assignment of Lease and, Rents Signature Page]

This Absolute Assignment of Leases and Rents is entered into as of the date first referenced above.

ASSIGNOR:  
M&M Real Estate, LLC

By: *W. Murphy*  
Member  
Title: *George*

ACKNOWLEDGMENT

STATE OF ARKANSAS  
COUNTY OF *Fulton*

Personally appeared before me, the undersigned authority in and for the said county and state, on this 17<sup>th</sup> day of September, 2010, within my jurisdiction, the within-named *Harold Major*, who acknowledged that he is the *Member* of M&M REAL ESTATE, LLC, an Arkansas limited liability company (the "Company"), and that, for and on behalf of the said Company and as its act and deed, he/she executed the above and foregoing instrument after first having been duly authorized by said Company to do so.

*Brad Sims*  
Notary Public


My commission expires: \_\_\_\_\_  


EXHIBIT A

LEGAL DESCRIPTION OF MORTGAGED PROPERTY

PARCEL 1 - Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West along said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.

PARCEL 2 - Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway, known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10495 and 96-10496, records of Pulaski County, Arkansas.

PARCEL 3 - Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds East 5.0 feet to the point of beginning.



**ASSIGNMENT OF ABSOLUTE ASSIGNMENT OF LEASES AND RENTS**

Prepared By:

Simmons Bank  
Attn: Charles Brown  
P O Box 7009  
Pine Bluff, AR 71601

And When Recorded Mail To:

Alison Hutchings  
Midwest Servicing 4, LLC  
3144 S Winton Rd.  
Rochester, NY 14623

11-82



2017047056

PRESENTED: 07-25-2017 01:28:20 PM RECORDED: 07-25-2017 01:28:20 PM

In Official Records of Larry Crane Circuit/County Clerk

PULASKI CO, AR FEE \$20.00



*(Space above this line for Recorder's use)*

**ASSIGNMENT OF INTEREST IN ABSOLUTE ASSIGNMENT OF LEASES AND RENTS**

FOR VALUE RECEIVED, the undersigned ("Assignor") hereby assigns and transfers to COMMERCIAL LOAN INVESTMENT X, LLC, a Delaware Limited Liability Company with an address of c/o Castlake L.P., 4600 Wells Fargo Center, 90 South 7<sup>th</sup> Street, Minneapolis, Minnesota 55402 ("Assignee"), its successors and assigns, **WITHOUT RECOURSE**, the undersigned's interest in and to that certain Absolute Assignment of Leases and Rents dated as of September 17, 2010, and recorded on September 22, 2010 as Document Number 2010058474 in the Office of the Circuit / County Clerk, Pulaski County, Arkansas. The foregoing assignment is being made without representation or warranty, express or implied or imposed by law, except as specifically set forth in Sections 6.1, 6.2 and 19 of that certain Loan Purchase and Sale Agreement executed by and among the Assignor and the Assignee, dated May 17, 2017 ("Agreement").

IN WITNESS WHEREOF, the undersigned has executed this Assignment of Absolute Assignment of Leases and Rents, as of June 8, 2017.

SIMMONS BANK as successor by conversion to Simmons First National Bank, as successor by merger to Delta Trust & Bank

By: Charles Brown  
Name: Charles Brown  
Title: SVP Credit Administration

[THE REMAINDER OF THIS PAGE WAS LEFT BLANK INTENTIONALLY]

**EXHIBIT**  
**M**

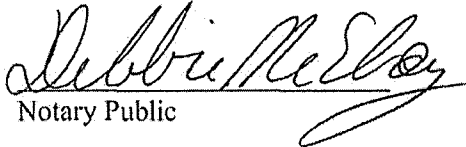
**ACKNOWLEDGEMENT**

STATE OF: ARKANSAS  
COUNTY OF: PULASKI

The foregoing instrument was ACKNOWLEDGED before me this 8th day of June, 2017, by Charles Brown, SVP Credit Administration of Simmons Bank, an Arkansas State bank, on behalf of said Simmons Bank.

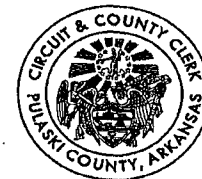
[S E A L]

OFFICIAL SEAL  
DEBBIE McELROY  
NOTARY PUBLIC, ARKANSAS  
LONOKE CO. COMM #12396382  
MY COMMISSION EXPIRES 12-08-2023

  
Notary Public



**2020002556**  
PULASKI CO. AR FEE \$25.00  
PRESENTED  
1/13/2020 2:12:32 PM  
RECORDED  
01/13/2020 04:05:04 PM  
TERRI HOLLINGSWORTH  
Circuit / County Clerk  
BY: RUTHIE WATSON  
DEPUTY RECORDER



Instrument Prepared By:  
Midwest Servicing 4, LLC  
3144 S. Winton Rd.  
Rochester, NY 14623

After Recording Return To  
SCR Joint Venture, L.P.  
100 N. Center Street  
Newton Falls, OH 44444  
[REDACTED] 001-3  
(29011-01)

#### ASSIGNMENT OF ABSOLUTE ASSIGNMENT OF LEASES AND RENTS

FOR VALUE RECEIVED, Commercial Loan Investment X, LLC, having an address of c/o Midwest Servicing 2, Inc., 3144 S. Winton Rd., Rochester, NY 14623 ("Assignor") does hereby grant, bargain, sell, assign, transfer, and convey to SCR Joint Venture, L.P., having an address 100 N. Center Street, Newton Falls, OH 44444 ("Assignee"), all of Assignor's right, title and interest in and to that certain assignment of leases and rents described below ("Assignment of Rents"), which Assignment of Rents encumbers the property more particularly described therein, together with the indebtedness evidenced by any promissory note or evidence of indebtedness. This Assignment is made without recourse to Assignor and without representation or warranty.

Name of Document:	<u>Absolute Assignment of Leases and Rents</u>
Amount Secured:	<u>\$1,795,000.00</u>
Place of Recording:	<u>Circuit County Clerk; Pulaski County, AK</u>
Grantor Name(s):	<u>M&amp;M Real Estate, LLC</u>
Original Beneficiary:	<u>Delta Trust &amp; Bank</u>
Date of Instrument:	<u>September 17, 2010</u>
Date of Recording:	<u>September 22, 2010</u>
Instrument/Ref No.:	<u>Instrument No. 2010058474</u>

The Assignment of Rents was assigned to Commercial Loan Investment X, LLC pursuant to that certain Assignment of Interest in Absolute Assignment of Leases and Rents executed by Simmons Bank, as successor by conversion to Simmons First National Bank, as successor by merger to Delta Trust & Bank, dated June 8, 2017, recorded July 25, 2017, at Instrument No 2017047056.

EXHIBIT

N

IN WITNESS WHEREOF, Assignor hereby sets his hand and seal to this Assignment of Rents this 27 day of December, 2019

Witnesses:

Julia Wiater  
Signature

Julia Wiater  
Print Name

M. Matthews  
Signature

Melissa Matthews  
Print Name

Commercial Loan Investment X, LLC

By: John M. Himmelberg  
John M. Himmelberg  
Authorized Representative

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF MONROE )

On the 27 day of December, 2019, before me, the undersigned, personally appeared John M. Himmelberg, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Kristen Turpin  
Notary Public

KRISTEN TURPIN  
Notary Public, State of New York  
Reg. No. 01TU6175477  
Qualified in Monroe County  
Commission Expires October 15, 2023

EXHIBIT "A"

Tract 1:

Lot 1 A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West long said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.

Tract 2

Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway, known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10495 and 96-10496, records of Pulaski County, Arkansas.

Tract 3:

Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds east 5.0 feet to the point of beginning.

# EXHIBIT “B”

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
ELEVENTH DIVISION**

**SCR JOINT VENTURE, L.P.**

**PLAINTIFF**

**vs.**

**CASE NO. 60CV-22-8029**

**M & M HOLDING, INC., M&M REAL ESTATE, LLC,  
DAVIS TRAILER & EQUIPMENT, INC., ROC FUNDING  
GROUP LLC, HAROLD MAJORS, TERESA MAJORS,  
COMPLETE BUSINESS SOLUTIONS GROUP, INC.,  
DEBRA BUCKNER, IN HER OFFICIAL CAPACITY AS PULASKI  
COUNTY TAX COLLECTOR, TOMMY LAND, IN HIS OFFICIAL  
CAPACITY AS COMMISSIONER OF STATE LANDS OF THE  
STATE OF ARKANSAS, AND STATE OF ARKANSAS  
DEPARTMENT OF FINANCE AND ADMINISTRATION**

**DEFENDANTS**

**FORECLOSURE DECREE**

Pending before the Court is Plaintiff SCR Joint Venture, L.P.'s Motion for Default Judgment filed March 15, 2024. The Motion seeks relief against the following Defendants: M & M Holding, Inc., M&M Real Estate, LLC, Davis Trailer & Equipment, Inc., ROC Funding Group LLC and Debra Buckner, in her Official Capacity as Pulaski County Tax Collector. From the Motion, the statements of counsel and the other facts and matters before it, including the stipulation and agreement of the remaining, non-defaulting Defendants, the Court finds and orders as follows:

1. It has jurisdiction over the parties to and the subject matter of this action, as well as venue.

2. SCR Joint Venture properly served Defendants M & M Holding, Inc., M&M Real Estate, LLC, Davis Trailer & Equipment, Inc. with Summonses and a copy of its original Complaint. Returns of service are on file with the Court. These Defendants filed an Answer through counsel. SCR Joint Venture thereafter filed a First Amended Complaint, serving it upon their counsel on December 8, 2023, pursuant to Ark. R. Civ. P. 5 (b). No answer or other response to the First Amended Complaint has been filed, as required by Ark. R. Civ. P. 15 (a). These Defendants are thus in default, entitling SCR Joint Venture to judgment for the relief requested against them in its First Amended Complaint, pursuant to Ark. R. Civ. P. 55 (a).

3. The First Amended Complaint sought *in rem* relief or a declaration of priority as against Defendant Debra Buckner, in her Official Capacity as Pulaski County Tax Collector, and Defendant ROC Funding Group LLC. As established by Affidavit of Service filed March 11, 2024, these Defendants were properly served with Summonses and a copy of SCR Joint Venture's First Amended Complaint by certified mail on December 18, 2023 and December 21, 2023, respectively. Neither has answered or otherwise responded to the First Amended Complaint, and they are thus also in default, entitling SCR Joint Venture to judgment for the relief requested in its First Amended Complaint, pursuant to Ark. R. Civ. P. 55 (a). Any interest of these Defendants in the property that is the subject of this action is junior or inferior to the interest of SCR Joint Venture.

4. The remaining Defendants, Harold Majors and Teresa Majors, Complete Business Solutions Group, Inc., Tommy Land, in his Official Capacity as Commissioner of State Lands, and State of Arkansas Department of Finance and Administration each timely responded or were relieved from responding to SCR Joint Venture's First Amended Complaint, and they now stipulate and agree to the entry of this Decree.

5. As described in the First Amended Complaint, Defendants M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment executed a Secured Promissory Note (7841315) (Note 1) and a Secured Open-End Line of Credit Promissory Note (7831955) (Note 2), secured by a Mortgage, Security Agreement and Assignment of Rents (the MSA), and SCR Joint Venture has acquired all right, title and interest in Note 1, Note 2 and the MSA.

6. M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment's obligations under Note 1, Note 2 and the MSA are delinquent and in default.

7. M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment voluntarily surrendered personal property securing Note 1 and Note 2 pursuant to the MSA, and after providing full and complete notice to all required recipients, in accordance with Ark. Code Ann. § 4-9-611 and/or other applicable law, SCR Joint Venture disposed of or sold such personal property at public sale, in accordance with Ark. Code Ann. § 4-9-601 et seq. and/or other applicable law. Pursuant to Ark. Code Ann. § 4-9-604 and/or

other applicable law, SCR Joint Venture may proceed with foreclosure upon the real property described in the MSA.

7. After allowing all credits, the balance due and outstanding on Note 1 is \$1,254,438.30, as of March 11, 2024, with additional interest accruing at the rate of \$267.39 per day until the date this Decree is entered, and interest accruing thereafter at the rate of 9.5% per annum.

8. After allowing all credits, the balance due and outstanding on Note 2 is \$1,611,122.01, as of March 11, 2024, with additional interest accruing at the rate of \$361.68 per day until the date this Decree is entered, and interest accruing thereafter at the rate of 9.5% per annum.

9. The real property that is the subject of this action and this Decree is located in Pulaski County, Arkansas and is described as follows:



PARCEL 1 - Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT that portion of said Lot 1 conveyed to the Arkansas State Highway Commission in Warranty Deed filed for record September 6, 2001 of record as Document No. 2001068941, records of Pulaski County, Arkansas and more particularly described as follows: Starting at the Southwest corner of Lot 1, A.G.D. Subdivision in the City of Little Rock, Pulaski County, which is also on the existing right-of-way line of Western Hills Avenue; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 381.80 feet to a point for the point of beginning; thence North 01 degree 57 minutes 15 seconds East along said existing right-of-way line a distance of 175.03 feet to a point on the existing Southerly right-of-way line of State Highway No. 5 (now Colonel Glenn Road); thence North 60 degrees 16 minutes 45 seconds East along said existing right-of-way line a distance of 227.68 feet to a point on the East line of Lot 1, A.G.D. Subdivision in the City of Little Rock; thence South 02 degrees 27 minutes 47 seconds West long said East line a distance of 15.33 feet to a point on the proposed Southerly right-of-way line of said State Highway No. 5 (now Colonel Glenn Road); thence South 61 degrees 42 minutes 40 seconds West along said proposed right-of-way line a distance of 118.89 feet to a point; thence South 60 degrees 16 minutes 45 seconds West along said proposed right-of-way line a distance of 90.00 feet to a point; thence South 00 degrees 20 minutes 51 seconds West along said proposed right-of-way line a distance of 109.77 feet to a point; thence South 17 degrees 32 minutes 19 seconds West along said proposed right-of-way line a distance of 64.77 feet to the point of beginning, and being shown on Plat No. B-889, records of Pulaski County, Arkansas.

PARCEL 2 - Part of the SE1/4 SE1/4, Section 14, Township 1 North, Range 13 West in the City of Little Rock, Pulaski County, Arkansas, more particularly described as follows: Commence at the Southeast corner of said Section 14, thence North on Section Line to Hot Springs Highway, known also as Nineteenth Street Pike 550 feet; thence in a Southwesterly direction along the Hot Springs Highway 457 feet 6 inches to an iron pin at the Northeast corner of two (2) acres of land sold to G.W. Douglass; thence South 314 feet 6 inches to the South line of SE1/4 said Section 14; thence East on South line of said SE1/4 SE1/4 397 feet to point of beginning; LESS AND EXCEPT that portion of subject property Deeded to the City of Little Rock by Dedication Deeds dated December 13, 1995 and filed February 6, 1996, and recorded as Instrument No.'s 96-10495 and 96-10496, records of Pulaski County, Arkansas.

PARCEL 3 - Lots 1, 2, 3, 4, 5 and the East 28 feet of Lot 6, Block 1, Westwood Addition to the City of Little Rock, Pulaski County, Arkansas, LESS AND EXCEPT the East 5 feet of Lots 1 and 2, being more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence South 01 degree 07 minutes 52 seconds East 150.27 feet to the Southeast corner of said Lot 2; thence South 89 degrees 36 minutes 12 seconds West along the South line of said Lot 2, 5.0 feet; thence North 01 degree 07 minutes 52 seconds West 150.27 feet to the North line of said Lot 1; thence North 89 degrees 33 minutes 44 seconds east 5.0 feet to the point of beginning.

(the Property).

10. SCR Joint Venture has an interest in the Property by virtue of (a) the MSA, which was duly acknowledged and filed of record with the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas on September 22, 2010, where it now appears of record as Instrument No. 2010058473; (b) Modifications of the MSA duly acknowledged and filed of record with the Circuit Clerk and Ex-Officio Recorder of Pulaski County,

Arkansas on October 6, 2011, October 20, 2014 and December 7, 2015, as Instrument Nos. 20111059249, 2014061685 and 2015076221, respectively; (c) an Assignment duly acknowledged and filed of record with the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas on July 25, 2017, where it now appears of record as Instrument No. 2017047055; and (d) an Assignment duly acknowledged and filed of record with the Circuit Clerk and Ex-Officio Recorder of Pulaski County, Arkansas on January 13, 2020, where it now appears of record as Instrument No. 2020002554.

11. The MSA constitutes a lien upon the Property, and the right to foreclose the lien has become absolute. SCR Joint Venture is entitled to judgments *in personam* against M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment, Inc. and *in rem* against the Property for the amounts stated in Paragraphs 7-8 of this Decree, as well as the other amounts awarded herein.

12. Defendants Harold and Teresa Majors, Tommy Land, in his Official Capacity as Commissioner of State Lands, and State of Arkansas Department of Finance and Administration filed Answers disclaiming any present interest in the Property, and they consent to the relief requested herein.

13. Defendant Complete Business Solutions Group, Inc. is currently in receivership. Through undersigned counsel for the receiver, it consents to the relief requested herein.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED:

a. SCR Joint Venture is granted judgment against M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment, Inc. and the Property, jointly and severally, for the balance due on Note 1 in the amount of \$1,254,438.30, including interest accrued through March 11, 2024, with interest accruing thereafter at the rate of 9.5% per annum..

b. SCR Joint Venture is granted judgment against M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment, Inc. and the Property, jointly and severally, for the balance due on Note 2 in the amount of \$1,611,122.01, including interest accrued through March 11, 2024, with interest accruing thereafter at the rate of 9.5% per annum.

c. SCR Joint Venture is granted judgment against M & M Holding, Inc., M&M Real Estate, LLC and Davis Trailer & Equipment, Inc. and the Property, jointly and severally, for attorney's fees and costs in the amount of \$14,990.92, with interest accruing thereafter at the rate of 9.5% per annum.

d. Said judgments against the Property shall be and hereby are declared, by virtue of SCR Joint Venture's MSA and this Decree, a lien upon the Property superior to the interest of all Defendants.

e. The lien of SCR Joint Venture shall be foreclosed in accordance with Arkansas law and this Decree, with the Property sold subject to any taxes due and payable.

f. If the judgments and liens as given and awarded in this Order, as well as interest thereon together with reasonable attorney's fees, court costs and costs and expenses of collection, are not paid within ten (10) days of the date of this Order, the Commissioner of this Court hereinafter named, after he or she shall advertise the time, terms and place of sale for ten (10) days by publication in some newspaper in Pulaski County, Arkansas, having a bona fide circulation therein, by one insertion and also by posting a printed notice of the sale at the main entrance to the courthouse, shall sell the Property at the Pulaski County Courthouse, Little Rock, Arkansas, inside the Courthouse corridor, where such sales are customarily conducted, at public sale to the highest and best bidder in cash or by credit of three (3) months, subject any taxes due and payable. If on credit, the purchaser shall be required to pay ten percent (10%) of the purchase price, which is not refundable, and give bond with approved security to secure payment of the remainder of the purchase price, plus interest at the greater of the rate provided in the judgments in this Order, in any case not to exceed the rate provided for by the Arkansas Constitution or its amendments; and a lien shall be retained on said Property in favor of SCR Joint Venture to secure the payment of the purchase price. Any successful bidder will be responsible, if required by law, for all revenue transfer stamps for the Commissioner's Deed. Should any successful bidder fail to perform under the instructions of the Commissioner at time of sale, then that bid shall be void and set aside (except for any forfeited 10% payment). The Commissioner

thereafter shall find that the Property shall be awarded to the next successive highest bidder, until performance is rendered.

f. Upon the sale of the Property as aforesaid, and confirmation thereof by this Court, all the right, title, claim, interest, equity or estate of the Defendants who are not purchasers at said sale in and to said Property and every part thereof shall be forever barred and foreclosed, including all right or possibility of redemption, appraisement, courtesy, dower and homestead of any of the parties to this cause of action.

g. The clerk of this Court is hereby appointed Commissioner of this Court to execute this order as to the Defendants, to make the sale of the Property as aforesaid, and to report such actions to this Court, pursuant to law.

h. The right of a purchaser at the foreclosure sale to a writ of assistance shall be preserved as to the Defendants.

i. This Court further finds that SCR Joint Venture's Lis Pendens was properly filed in the real estate records of Pulaski County, Arkansas on November 23, 2022, covering the Property, as Instrument No. 2022078905. Any liens, encumbrances or interests of any kind appearing on record after the date of such lis pendens notice and pertaining to the Property are hereby terminated, voided and shall not be deemed a lien, an encumbrance or interest in the Property.

j. SCR Joint Venture may bid at the foreclosure sale, and if it is the highest bidder, it will receive a credit in the amount of its interest, as set forth herein.

k. Should the foreclosure sale result in cash proceeds, those proceeds will be distributed in the following order of priority: *(a)* the clerk of the Court, in the amount of any fee approved by the Court for her services as Commissioner herein; *(b)* SCR Joint Venture, in the amounts stated or awarded herein; and *(c)* any excess above these amounts to be held pending further order of the Court.

l. The Court retains jurisdiction to make such further Orders as are just and necessary in connection with sale of the property and conclusion of this case.

IT IS SO ORDERED.

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CIRCUIT JUDGE

Stipulated and Agreed:

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