

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Investigation of Howison
Heights, Inc's Ability to Provide Sufficient and
Efficient Service.

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Docket No. 13-HHIW- 460-GIV

JAN 14 2013

MOTION TO INITIATE INVESTIGATION

Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) respectfully moves the Commission to open an investigation into the financial, managerial and operational ability of Howison Heights, Inc. (Howison) to provide safe, sufficient and efficient service to its utility customers. In support of its motion, Staff states as follows:

1. On September 26, 2005, Howison received a certificate to transact the business of a public utility in a certain territory and encompassing certain customers in Kansas.¹
2. On January 7, 2013, in Docket No. 13-HHIW-224-CPL (224 Docket), Staff received Howison's Fourth Compliance Report in which it stated:

Howison has been served with a Petition filed in Saline County District Court by Central National Bank, Case No. 12CV444. The Petition contains several counts against Howison seeking payment of the outstanding loans and/or foreclosing on the mortgages held by Central National Bank.²

Staff obtained a copy of the Petition filed by Central National Bank in Saline County District Court Case No. 12CV444, wherein Central National Bank is seeking \$396,442.04, plus interest and costs from Howison.³

¹ Docket No. 05-HHIW-277-COC (277 Docket). A copy of the 277 Docket Order and Certificate is attached hereto as Attachment 1.

² 224 Docket, Fourth Compliance Report, (Jan. 7, 2013). A copy of Howison's Fourth Compliance Report in the 224 Docket is attached hereto as Attachment 2.

³ A copy of Saline County District Court Case No. 12CV444, styled *Central National Bank v. Howison Heights, Inc., et al.* is attached hereto as Attachment 3.

3. Staff is concerned that Howison may currently be unable to provide safe, sufficient and efficient service to its customers due to its apparent current financial crisis and past audit history in Docket No. 12-HHIW-382-RTS (382 Docket). Staff is on record in the 382 Docket as stating, "Howison Heights is in dire financial condition."⁴

4. Because the future of whether Howison will be able to provide sufficient and efficient service to its customers is uncertain, Staff respectfully requests the Commission open an investigation. Regardless of whether the Commission opens a Show Cause or a General Investigation, Staff requests that if the Commission determines any action is necessary, such action be taken in this docket.

WHEREFORE, Staff requests the Commission consider its Motion to Initiate Investigation into the financial, managerial and operational ability of Howison Heights, Inc. and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,



Holly L. Fisher, #24023
Michael Neeley, #25027
Litigation Counsel
Kansas Corporation Commission
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Topeka, KS 66604-4027
(785) 271-3312 (tel.)
(785) 271-3167 (fax)
h.fisher@kcc.ks.gov
m.neeley@kcc.ks.gov
Attorneys for Commission Staff

⁴ 382 Docket, Notice of Filing of Staff's Report and Recommendation, (Feb. 8, 2012), p. 4, attached hereto as Attachment 4.

ATTACHMENT 1

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Brian J. Moline, Chair
 Robert E. Krehbiel
 Michael C. Moffet

In the Matter of the Application of Howison Heights, Inc.)
For a Certificate of Convenience and Authority to Transact) Docket No.
the Business of a Provider of Potable Drinking Water.) 05-HHIW-277-COC

ORDER AND CERTIFICATE

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised of all matters of record, the Commission finds and concludes as follows:

I. BACKGROUND

1. On October 5, 2004, Howison Heights, Inc. ("Howison" or "Applicant") filed its Application for Certificate (Application) seeking a certificate of convenience and authority to transact the business of a provider of potable drinking water in the State of Kansas, more specifically, within territory located in Saline County, Kansas.

2. On October 18, 2004, Rural Water District No. 2, Ottawa County, Kansas (RWD No. 2), pursuant to K.A.R. 82-1-218(d) and (e) and K.A.R. 82-1-225, filed a Petition to Intervene and Protest the Application Filed by Howison Heights, Inc. seeking a Commission order granting RWD No. 2 leave to intervene as a party in this matter. On November 2, 2004, the Commission entered an Order granting RWD No. 2's petition to intervene.

3. On November 2, 2004, the Commission entered an Order Directing Amendment of Application directing Applicant to amend its Application in accordance with the requirements set forth in paragraph 3 of the November 2, 2004 Order and file the required amendment within twenty (20) days from the date of service of the Order.

4. On November 22, 2004, Robert W. Green of Robert W. Green, Chartered, 109 West Second Street, Ottawa, Kansas, entered his appearance as attorney of record for Applicant and filed an Application for Extension of Time to Complete Application requesting an additional ten (10) days in which to complete Howison's Application, as required by the Commission's November 2, 2004 Order. The Commission issued an Order on November 23, 2004 granting Applicant's request and extended the time for filing the required amendment to December 9, 2004.

5. On December 9, 2004, in response to the Commission's Order of November 2, 2004, Applicant filed its First Amendment of Applicant Howison Heights, Inc. to Application for Certificate of Convenience and Authority (First Amendment to Application). Applicant's First Amendment to Application included amendments to Exhibit A of the Application, a water rate schedule Form RF and a Certificate of Good Standing for Howison Heights, Inc. issued by the Office of the Secretary of State on November 17, 2004.

6. On December 20, 2004, RWD No. 2 filed its Response to First Amendment of Applicant to Application for Certificate of Convenience and Authority seeking clarification as to matters, materials and exhibits contained in Howison's First Amendment to Application and reaffirming its Protest filed with the Commission on October 18, 2004.

7. On January 13, 2005, Applicant filed its Corrected First Amendment of Applicant Howison Heights, Inc. to Application for Certificate of Convenience and Authority (Corrected First Amendment to Application) making additional corrections to the text and exhibits of the Application, as amended.

8. On July 26, 2005, Staff filed a Motion Requesting Prehearing Conference requesting that the Commission schedule a prehearing conference in this matter. The Commission responded on July 28, 2005, by issuing its Order scheduling a prehearing conference at the Commission's Offices in Topeka on August 9, 2005.

9. On August 9, 2005, a prehearing conference was held in this matter with Susan Cunningham, Hearing Examiner, presiding. On September 15, 2005, the Commission issued its Prehearing Conference Order providing for issuance of a certificate of convenience and authority authorizing Applicant to provide water service to customers currently served by Applicant. With the parties' agreement, the Commission holds in abeyance its determination as to the customer/territory in dispute (*i.e.*, the Big Valley subdivision) pending a determination on the same issue by the Saline County District Court. It was further ordered that the parties provide the Commission a joint status report within sixty (60) days from the date of the Order, advising the Commission of any progress made on the appeal before the Saline County District Court.

10. On August 15, 2005, Howison filed with the Commission a duly executed Form RF, Schedule Water Rate 1, setting forth its schedule of rates to be charged in connection with providing water utility service.

11. On September 20, 2005, Applicant filed an Addendum and Amendment to Exhibits 1 through 3 of the Corrected First Amendment to Application providing

additional recording information and correction and clarification of water customer names and addresses.

12. Based on Applicant's verified Corrected First Amendment to Application filed January 13, 2005, and agreement reached between the parties at the August 9, 2005 prehearing conference, it is intended that the Commission issue Howison a certificate of convenience and authority to provide potable drinking water to customers in the premise-specific service territory described in Attachment 1 attached hereto and incorporated in this Order by reference.

II. DISCUSSION AND FINDINGS

13. Howison Heights, Inc. is a for profit corporation duly organized and existing under the laws of the State of Kansas and whose status with the Office of the Secretary of State is active and in good standing. Howison seeks a certificate of convenience and authority to transact the business of a water public utility in the State of Kansas pursuant to K.S.A. 66-104, K.S.A. and K.S.A. 66-131. Under these applicable statutes, the Commission has jurisdiction over the Applicant and the subject matter herein.

14. Based upon Howison's verified Corrected First Amendment to Application filed January 13, 2005, and agreement reached at the August 9, 2005 prehearing conference, the Commission finds that Howison Heights, Inc.'s request is reasonable and in the public interest. Howison should be issued a Certificate of Convenience and Authority to transact the business of a water public utility within the premise-specific service territory described in Attachment 1 to this Order. The Commission further finds that it should hold in abeyance its determination as to the

customer/territory in dispute (*i.e.*, the Big Valley subdivision) pending a determination on this issue by the Saline County District Court. The Commission also finds that Howison should, within thirty (30) days from the date of this Order, file for the Commission's review and approval rules and regulations applicable to the service to be provided under its Certificate of Convenience and Authority.

IT IS, THEREFORE, BY THE COMMISSION CONSIDERED AND CERTIFICATED THAT:

15. Howison Heights, Inc.'s Corrected First Amendment to Application filed January 13, 2005, is hereby granted, as modified by the conditions set forth in paragraph 14 above and accordingly, Howison Heights, Inc. is issued a Certificate of Convenience and Authority to conduct the business of a water public utility within the premise-specific service territory described in Attachment 1 to this Order.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The rates to be charged are the rates set forth in Howison's Schedule Water Rate 1 filed with the Commission on August 15, 2005 and referenced in paragraph 10 of this Order.

(B) A determination as to the customer/territory dispute regarding Big Valley subdivision is hereby held in abeyance pending a determination on this issue by the Saline County District Court. Pursuant to the Commission's Prehearing Conference Order issued September 15, 2005, the parties are hereby ordered to provide the Commission a joint status report within sixty (60) days of September 15, 2005, advising the Commission as to any progress made on the appeal before the Saline County District Court.

(C) Howison Heights, Inc. shall, within thirty (30) days from the date of this Order, file for the Commission's review and approval its rules and regulations applicable to the service to be provided under the certificate of convenience and authority granted herein.

(D) A party may file a petition for reconsideration of this Order within fifteen (15) days from the date of service of this Order. If service is by mail, service is complete upon mailing, and three (3) days shall be added to the above time frame.

(E) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

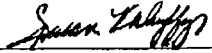
BY THE COMMISSION IT IS SO CERTIFICATED AND ORDERED.

Moline, Chr.: Krehbiel, Comm.; Moffet, Comm.

Dated: SEP 26 2005

ORDER MAILED

SEP 27 2005

 Executive
Director
Susan K. Duffy
Executive Director

oan

PREMISE-SPECIFIC SERVICE TERRITORY

**Premise-Specific Customers, or their successors and assigns, served by
Howison Heights, Inc. at the following locations:**

**I. South of Shipton Road: Located in the North Half (N/2) of Section 24, Township
13 South, Range 3 West, Saline County, Kansas**

<u>Customer/Howison Heights Account Number:</u>	<u>Tract Description*/ Street Address:</u>
Larry S. Shivers and Janet C. Shivers #1030	Deed Book 357 at Page 640 636D E. Shipton Road Salina, KS 67401-9802
Michael Hodges and Robin S. Hodges #1031	Deed Book 381 at Page 148 636F E. Shipton Road Salina, KS 67401-9322
Joseph J. King and Rachelle M. King #1032	Deed Book 350 at Page 925 636G E. Shipton Road Salina, KS 67401-9322
Frances M. Staton and Clayton L. Staton #1029	Deed Book 350 at Page 91 636C E. Shipton Road Salina, KS 67401-9322
Robert D. Hull and Joann Hull #1027	Deed Book 352 at Page 902 636A E. Shipton Road Salina, KS 67401-9322
Lela Silver and Regina M. Troxell, Trustees #1019	Deed Book 366 at Page 868 372 E. Shipton Road Salina, KS 67401-9356
Marie A. Simpson #1026	Deed Book 363 at Page 902 636 E. Shipton Road Salina, KS 67401-9322
Daniel A. Kitchen and Dorothy A. Kitchen #1028	Deed Book 318 at Page 69 636B E. Shipton Road Salina, KS 67401-9802

Robert Eldridge George and Bonnie Carol George,
#1023 Trustees

Deed Book 363 at Page 430
532 E. Shipton Road
Salina, KS 67401-9802

David D. Bieberly and Lisa Anne Logan
#1033

Deed Book 377 at Page 879
532B E. Shipton Road
Salina, KS 67401-9328

***As described in the Records of the Register of Deeds of Saline County, Kansas**

II. North of Shipton Road: Located in the West Half (W/2) and Southeast Quarter (SE/4) of Section 13, Township 13 South, Range 3 West, Saline County, Kansas

**Customer/Howison
Heights Account Number:**

**Tract Description*/
Street Address:**

Billy L. Schneider and Sally Anne Schneider
#1045

Book 1066 at Page 440
4763 Bowen Drive
Salina, KS 67401-9205

Larry D. Watts and Jennifer S.P. Watts
#1038

Book 380 at Page 168
4561 N. Wasserman Way
Salina, KS 67401-9802

Curtis C. Engel and Cynthia M. Engel, Trustees
#1044

Book 392 at Page 653
444 E. Country Heights Ct.
Salina, KS 67401-9802

Randall W. Miller and Patricia M. Miller
#1039

Book 377 at Page 458
4563 N. Wasserman Way
Salina, KS 67401-9802

Robert D. Williams and Janice C. Williams
#1037

Book 331 at Page 315
4509 N. Wasserman Way
Salina, KS 67401-9323

Alan Lee Martin
#1025

Book 387 at Page 891
633 E. Shipton Road
Salina, KS 67401-9322

Richard R. Hicks
#1020

Book 1036 at Page 1395
421 E. Shipton Road
Salina, KS 67401-9802

Brian H. Oxandale and Marlene R. Oxandale
#1021

Book 334 at Page 890
469 E. Shipton Road
Salina, KS 67401-9252

D. B. Reinsch and Carol A. Reinsch, Trustees
#1022

Book 388 at Page 676
537 E. Shipton Road
Salina, KS 67401-9328

Michael Alan Hulteen and Kelley Irene Hulteen
#1034

Book 359 at Page 352
4409 N. Wasserman Way
Salina, KS 67401-9323

Dale W. Swindler and Karmel L. Swindler
#1035

Book 375 at Page 646
4441 N. Wasserman Way
Salina, KS 67401-9323

Phillip D. Hurd and Connie A. Hurd
#1036

Book 368 at Page 271
4489 N. Wasserman Way
Salina, KS 67401-9323

***As described in the Records of the Register of Deeds of Saline County, Kansas**

**III. Jointly served by both Howison Heights, Inc. and Rural Water District No. 2,
Ottawa County: Located in the Northwest Quarter (NW/4) of Section 13, Township
13 South, Range 3 West, Saline County, Kansas**

**Customer/Howison
Heights Account Number:**

**Tract Description*/
Street Address:**

Francis P. Ryan and Marie Lynn Ryan
#1040

Book 1110, Page 1017
4660 N. Wasserman Way
Salina, KS 67401-9323

John R. Rupright
#1041

Book 373, Page 342
4737 N. Wasserman Way
Salina, KS 67401-9802

Kenneth W. Wasserman and Pamela A. Wasserman
#1043

Book 1016, Page 1695
4876 N. Wasserman Way
Salina, KS 67401-9326

Billy L. Schneider and Sally Anne Schneider
#1045

Book 1066, Page 440
4763 Bowen Drive
Salina, KS 67401-9205

***As described in the Records of the Register of Deeds of Saline County, Kansas**

IV. Sandy Valley Subdivision: Located in the West Half of the Southwest Quarter (W/2SW/4) of Section 13, Township 13 South, Range 3 West, Saline County, Kansas

**Customer/Howison
Heights Account Number:**

Street Address:

Derek McKellips and Michelle McKellips #1001	4215 North Sandy Avenue Salina, KS 67401-9482
John Guerrero and Jan Guerrero #1002	4216 North Sandy Avenue Salina, KS 67401-9398
James Wooten and Ginger Wooten #1003	4257 North Sandy Avenue Salina, KS 67401-9482
Blaine E. Cleveland and Beverly K. Cleveland #1004	4277 North Sandy Avenue Salina, KS 67401-9482
Randy Brin #1005	4280 North Sandy Avenue Salina, KS 67401-9398
Hubert Erker and Stacy Erker #1006	4301 North Sandy Avenue Salina, KS 67401-9392
David Coad and Kim Coad #1007	4333 North Sandy Avenue Salina, KS 67401-9392
Kevin Shamburg and Joleta Shamburg #1008	4340 North Sandy Avenue Salina, KS 67401-9391
Shane Komarek and Beth Komarek #1009	4363 North Sandy Avenue Salina, KS 67401-9392
Gary D. Gibson and Diane G. Gibson #1010	4377 North Sandy Avenue Salina, KS 67401-9392
Jim Linenberger and Valerie Linenberger #1011	4395 North Sandy Avenue Salina, KS 67401-9392
Ron Coad and Diana Coad #1012	4400 North Sandy Avenue Salina, KS 67401-9391
Terry Odle and Mary Lou Odle #1013	4415 North Sandy Avenue Salina, KS 67401-9392

Stephen Wright and Carolyn Wright
#1014

4448 North Sandy Avenue
Salina, KS 67401-9391

C. Henry Walker and Karla Walker
#1015

4441 North Sandy Avenue
Salina, KS 67401-9392

Todd Falcon and Dorey Falcon
#1016

4485 North Sandy Avenue
Salina, KS 67401-9392

Brad Laude and Linda Laude
#1017

4464 North Sandy Avenue
Salina, KS 67401-9391

Richard W. Bruner and Victoria J. Bruner
#1018

221 East Shipton Road
Salina, KS 67401-9328

V. Turner Addition, Lots 2 through 6: Located in the West Half of the Southwest Quarter (W/2SW/4) of Section 13, Township 13 South, Range 3 West, Saline County, Kansas

**Customer/Howison
Heights Account Number:**

Street Address:

Doug Pahls
#1046

1624 Dover Circle
Salina, KS 67401

Kevin Turner and Nancy Turner
#1047

1925 K-18 Hwy.
Bennington, KS 67422

Phillip Schalles and Leanne Schalles
#1048

4326 N. Turner Lane
P.O. Box 2458
Salina, KS 67401

Darin Monroe and Cindy Monroe
#1049

4382 N. Turner Lane
Salina, KS 67401-7320

Kirk Stover and Amy Jo Stover
#1050

4412 Turner Lane
Salina, KS 67401-2417

ATTACHMENT 2

LAW OFFICES OF
ANDERSON & BYRD

A Limited Liability Partnership

JOHN L. RICHESON
JAMES G. FLAHERTY
R. SCOTT RYBURN
KEITH A. BROCK

216 S. HICKORY, P. O. BOX 17
OTTAWA, KANSAS 66067
(785) 242-1234, Telephone
(785) 242-1279, Facsimile
www.andersonbyrd.com

ROBERT A. ANDERSON
(1920-1994)
RICHARD C. BYRD
(1920-2008)

January 7, 2013

Sent by Facsimile

Ms. Patrice Petersen-Klein
Executive Director
Kansas Corporation Commission
1500 S. W. Arrowhead Road
Topeka, Kansas 66604-4027

Re: Howison Heights, Inc.
Docket No. 13-HHIW-224-CPL
Fourth Compliance Report

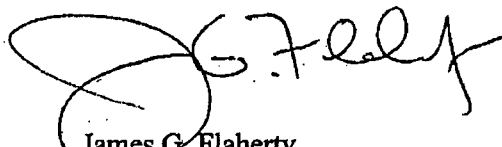
Dear Ms. Petersen-Klein:

In paragraph 14 of the Amended Order Granting Motion to Withdraw Application issued August 30, 2012 in Docket No. 12-HHIW-382-RTS, Howison Heights, Inc. ("Howison") was instructed to make compliance filings to report the status of renegotiations of its loan agreement in order to move forward on the sale of its utility business.

Howison has not been successful in moving forward with the sale of its utility business and, is therefore, preparing a new application to file with the Kansas Corporation Commission to seek approval to adjust its rates.

Howison has been served with a Petition filed in Saline County District Court by Central National Bank, Case No. 12CV444. The Petition contains several counts against Howison seeking payment of the outstanding loans and/or foreclosing on the mortgages held by Central National Bank. Howison has retained counsel to represent it in the case.

Sincerely,



James G. Flaherty
jflaherty@andersonbyrd.com

JGF:IT

cc: Robert A. Fox
Holly L. Fisher
Jeff McClanahan
Niki Christopher

ATTACHMENT 3

IN THE DISTRICT COURT OF SALINE COUNTY, KANSAS

Case No. 12 CV 444

CENTRAL NATIONAL BANK,

Plaintiff

v.

HOWISON HEIGHTS, INC.; TIMOTHY B. HOWISON a/k/a TIMOTHY BRETT HOWISON; MELINDA S. HOWISON a/k/a MELINDA SUE HOWISON; TIMOTHY B. HOWISON AND MELINDA S. HOWISON, TRUSTEES OF THE TIMOTHY AND MELINDA HOWISON TRUST UNDER AGREEMENT DATED OCTOBER 25, 2007; and THE BENNINGTON STATE BANK,

Defendants.

- A. XX Ch. 60 in KS (Personal Service)
B. _____ Ch. 60 Outside KS (Personal Service)
C. _____ Ch. 60 in KS (Certified Mail)
D. _____ Ch. 60 Outside KS (Certified Mail)
E. _____ Ch. 61 in KS (Personal Service)
F. _____ Ch. 61 Outside KS (Personal Service)
G. _____ Ch. 61 in KS (Certified Mail)
H. _____ Ch. 61 Outside KS (Certified Mail)
I. _____ Commissioner of Insurance
J. _____ Secretary of State
K. _____ Other

VIA PERSONAL/RESIDENCE SERVICE - PRIVATE PROCESS SERVER
SUMMONS

To the Above-Named Defendant:

Melinda S. Howison a/k/a Melinda Sue Howison, 1212 Meyer Dr., Salina, Kansas 67401

You are hereby notified that an action has been commenced against you in this Court. You are required to file your answer to the petition with the Court and to serve a copy upon Michael P. Alley, plaintiff's attorney at Clark, Mize & Linville, Chartered, P.O. Box 380, Salina, Kansas 67402-0380.

- XX A. Within 21 days after service of summons upon you.
____ B. Within 30 days after service of summons upon you.
____ C. Within 21 days after the registered or certified mail is signed or refused by you.
____ D. Within 30 days after the registered or certified mail is signed or refused by you.
____ E. Prior to the Court's hearing set for _____ m. on the _____ day of _____, 20____.
____ F. Within 30 days after service of summons upon you or appear at _____ m. on the _____ day of _____, 20____.
____ G. Prior to the Court's hearing set for _____ m. on the _____ day of _____, 20____.
____ H. Within 30 days after the registered or certified mail is signed or refused by you, or appear at _____ m. on the _____ day of _____, 20____.
____ I. Within 40 days after service of summons upon the Commissioner of Insurance.
____ J. Within 30 days after service of summons upon the Secretary of State.
____ K. Other: _____

If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition. Any related claim which you may have against the petitioner/plaintiff must be stated as a counterclaim in your answer, or you will thereafter be barred from making such claim in any other action.

(Seal of the Court)

Dated Nov 26, 2012



Clerk of the District Court

By: Teresa D. Clark
Deputy Clerk

Case No. _____

*[] If checked, Summons must be served by _____, 20__ and your return made within _____ days thereafter.

RETURN OF SERVICE

I hereby certify that I have served this document/documents:

(1) **PERSONAL SERVICE**: By delivering a copy of said document to each of the following defendants on the dates indicated:

_____, 20__.
_____, 20__.

(2) **RESIDENCE SERVICE**: By leaving a copy of said documents at the usual place of residence of each of the following defendants, with the person hereinafter named, such person being of suitable age and discretion and residing at the residence of each such defendant:

Defendant	Residence	Date
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(3) **CORPORATE OR PARTNERSHIP**: By delivering a copy of said documents to each of the following agents authorized by appointment or by law to receive service or process.

_____, 20__.

(4) **RESIDENCE SERVICE AND MAILING**: By leaving a copy of the Summons and a copy of the Petition at the dwelling house or usual place of abode, and mailing by first-class mail to each of the following defendants a notice that such copy has been so left

_____ on the _____ day of _____, 20__.

(5) **NO SERVICE**: The following defendants were not found in this County:

DATED: _____

Signature and Title of Officer

IN THE DISTRICT COURT
OF SALINE COUNTY, KANSAS

FILED
SALINE CO. DIST. COURT
2012 NOV 21 PM 3:27

CENTRAL NATIONAL BANK,
Plaintiff

v.

HOWISON HEIGHTS, INC.; TIMOTHY B.
HOWISON a/k/a TIMOTHY BRETT HOWISON;
MELINDA S. HOWISON a/k/a MELINDA SUE
HOWISON; TIMOTHY B. HOWISON AND
MELINDA S. HOWISON, TRUSTEES OF THE
TIMOTHY AND MELINDA HOWISON TRUST
UNDER AGREEMENT DATED OCTOBER 25,
2007; and THE BENNINGTON STATE BANK,
Defendants.

Case No. 12 CV 444

(Title to Real Estate Involved)

(Pursuant to K.S.A. Chapter 60)

PETITION

COMES NOW, the above named Plaintiff, Central National Bank, and for its cause of action herein against the Defendants states and alleges as follows:

Jurisdiction, Venue, and Service

1. Plaintiff is a national banking association organized and existing under and by virtue of the laws of the United States with its principal place of business at 802 N. Washington St., Junction City, Geary County, Kansas.
2. Jurisdiction is properly in this court based on the facts set forth below.
3. Venue is proper in this court pursuant to K.S.A. § 60-601(b).
4. The Defendants may be served as follows:
 - a. Howison Heights, Inc.: via personal or residence service to one of its officers, Timothy B. Howison, at 1212 Meyer Dr., Salina, Kansas 67401, and/or any other place where one of its officers, Timothy B. Howison, may be located and served.

- b. Timothy B. Howison a/k/a Timothy Brett Howison (hereinafter, "Timothy B. Howison"): via personal or residence service at 1212 Meyer Dr., Salina, Kansas 67401; and/or at any other place where said Defendant may be located and served.
- c. Melinda S. Howison a/k/a Melinda Sue Howison (hereinafter "Melinda S. Howison"): via personal or residence service at 1212 Meyer Dr., Salina, Kansas 67401; and/or at any other place where said Defendant may be located and served.
- d. Timothy B. Howison and Melinda S. Howison, Trustees of the Timothy and Melinda Howison Trust under agreement dated October 25, 2007 (hereinafter "The Howison Trust"): via personal or residence service on Timothy B. Howison, Trustee, at 1212 Meyer Dr., Salina, Kansas 67401; and/or any other place where said Defendant may be located and served.
- e. The Bennington State Bank: via personal or residence service to its resident agent, The Bennington State Bank, at 200 S. 9th, Salina, Kansas 67401.

5. None of the Defendants herein are members of the Military Service of the United States as defined by the Servicemembers Civil Relief Act, as amended.

COUNT I

(Against Howison Heights, Inc. and Timothy B. Howison)

Promissory Note and Modifications

6. On or about August 4, 2006, for value received, and in consideration of a loan in the principal amount of \$110,150.00 made by the Plaintiff, Defendants Howison Heights, Inc. and Timothy B. Howison (hereinafter collectively "Borrower") made, executed, and delivered to Plaintiff a Promissory Note (hereinafter "Note 1"), in writing, and by the terms of which Borrower promised and agreed to pay said amount, together with interest and other charges, in installments as set forth therein, and with a maturity date of August 4, 2008. A true and correct copy of Note 1 with all endorsements thereon is attached hereto, marked Exhibit A, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

7. Note 1 was modified in various manners on January 17, 2007, July 20, 2007, September 26, 2007, December 28, 2007, September 30, 2008, April 29, 2009, and July 19, 2010 (collectively, "Note 1 Modifications"), which, among other things, extended the maturity date of Note 1 to December 15, 2010, and increased the principal amount of Note 1 to \$275,000.00. A true and correct copy of the Note 1 Modifications with all endorsements thereon is attached hereto, marked Exhibit B, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

Real Estate Mortgages

8. For the purpose of securing the payment of the debt evidenced by Note 1, all other past and future obligations owed to Plaintiff, and all obligations described herein, Defendant Howison Heights, Inc. executed and delivered to Plaintiff a real estate mortgage, in writing, dated August 4, 2006 (hereinafter "Mortgage 1"), whereby it mortgaged and warranted to Plaintiff all of the following described real estate, to wit:

A tract of land situated in the Southwest corner of the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Thirteen (13), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, which is more particularly described as follows:

Beginning at a point on the South line of said Southwest Quarter (SW $\frac{1}{4}$) and One Hundred Sixteen (116) feet East of the Southwest corner thereof, said point being on the East line of the Kansas State Highway tract; thence North along said East line, One Hundred Five (105) feet; thence East and parallel with said South line a distance of One Hundred Twelve (112) feet; thence South One Hundred Five (105) feet to said South line; thence West along said South line of said Southwest Quarter (SW $\frac{1}{4}$) a distance of One Hundred Twelve (112) feet to the point of beginning.

A tract of land located in the East Half (E $\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Twelve (12); thence N00°03'01"W along the West line of said Southeast

Quarter (SE $\frac{1}{4}$) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East and parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of One Hundred (100.00) feet to the point of beginning.; thence East and parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Thirty (30.00) feet; thence North and parallel to the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Sixty (60.00) feet, thence West and parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Thirty (30.00) feet; thence S00°03'01"E along the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #1

A tract of land located in the East Half (E $\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section Twelve (12); thence N00°03'01"W along the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Two Thousand Four Hundred Twenty-four and Forty-five Hundredths (2424.45) feet; thence East parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence S00°03'01"E along the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #2

A tract of land located in the East half (E $\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Twelve (12); thence N00°03'01"W along the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence S00°03'01"E along the West line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Standpipe Site

A tract of land located in the East Half (E $\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southeast corner of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Twelve (12); thence N00°01'30"E along the East line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of Two Thousand Three Hundred Twenty-seven and Seventy-eight Hundredths (2327.78) feet; thence N89°58'20"W a distance of Fifty (50.00) feet to the West Right-of-Way line of Ohio Street; thence N89°58'20"W a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence N00°01'18"E a distance of Fifty (50.00) feet; thence S89°58'20"E a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence S00°01'30"W a distance of Fifty (50.00) feet back to the point of beginning, containing an easement for turning purposes, said easement is described as follows:

Beginning at the Southeast corner of the above described tract; thence N89°58'20"W a distance of Three Hundred Thirty and One-hundredth (330.01) feet to the point of beginning; thence N89°58'20"W a distance of Fifty (50.00) feet; thence S00°01'18"W a distance of Fifty (50.00) feet; thence N45°00'00"E a distance of Seventy and Sixty-nine Hundredths (70.69) feet to the point of beginning.

A parcel of land in the Northeast Quarter (NE $\frac{1}{4}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter (NE $\frac{1}{4}$); thence along the West line of said Northeast Quarter (NE $\frac{1}{4}$) on a assumed bearing of S00°19'21"E a distance of Two Hundred Thirty-three (233) feet; thence S89°59'07"E a distance of Ninety-two (92) feet to the point of beginning of the parcel to be described: -thence S89°59'07"E a distance of Thirty (30) feet; thence S00°19'21"E a distance of Thirty (30) feet; thence N89°59'07"W a distance of Thirty (30) feet; thence N00°19'21"W a distance of Thirty (30) feet to the point of beginning.

A parcel of land located in the Northeast Quarter (NE $\frac{1}{4}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter (NE $\frac{1}{4}$); thence on an assumed bearing of S00°19'21"E along the West line of said Northeast Quarter (NE $\frac{1}{4}$) a distance of Six Hundred Sixty-two and Eighty-six Hundredths (662.86) feet; thence N90°00'00"E a distance of Twenty-four (24.00) feet to the point of beginning of the parcel to be described; thence continuing N90°00'00"E a distance of Thirty (30.00) feet; thence S00°00'00"E a distance of Thirty (30.00) feet; thence N90°00'00"W a distance of Thirty (30.00) feet; thence N00°00'00"E a distance of Thirty (30.00) feet to the point of beginning.

together will all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, all water and riparian rights, wells, ditches, reservoirs, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (collectively referred to hereinafter as "HH Real Estate"). Defendant Howison Heights, Inc. was at the time of the making, execution and delivery of Mortgage 1 the owner of said HH Real Estate, free and clear of any other liens or encumbrances, with the exception of the first and prior mortgages and fixture filings of The Bennington State Bank, as hereafter described in paragraph 17 below. A true and correct copy of Mortgage 1 with all exhibits thereto and endorsements thereon is attached hereto, marked Exhibit C, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

9. Mortgage 1 that is attached hereto as Exhibit C in the principal amount of \$110,000.00, together with interest and other charges, was duly filed for record in the office of the Register of Deeds of Saline County, Kansas on August 15, 2006, at Book 1134, at Page 1267, in said office, and all taxes and fees, and in particular the registration fee required by Kansas Statute to be paid upon Mortgages upon real property, were duly paid by Plaintiff.

10. For the purpose of securing the payment of the debt evidenced by Note 1, all other past and future obligations owed to Plaintiff, and all obligations described herein, Defendant Howison Heights, Inc. executed and delivered to Plaintiff a real estate mortgage, in writing, dated January 17, 2007 (hereinafter "Mortgage 2"), whereby it mortgaged and warranted to Plaintiff all of the above described HH Real Estate. Defendant Howison Heights, Inc. was at the time of the making, execution and delivery of Mortgage 2 the owner of said HH Real Estate, free

and clear of any other liens or encumbrances, with the exception of the first and prior mortgages and fixture filings of The Bennington State Bank, as hereafter described in paragraph 17 below, and with the exception of Plaintiff's Mortgage 1 described in the preceding two (2) paragraphs. A true and correct copy of Mortgage 2, with all exhibits thereto and endorsements thereon is attached hereto, marked Exhibit D, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

11. Mortgage 2 that is attached hereto as Exhibit D in the principal amount of \$40,000.00, together with interest and other charges, was duly filed for record in the office of the Register of Deeds of Saline County, Kansas on January 18, 2007, at Book 1143, at Page 1941, in said office, and all taxes and fees, and in particular the registration fee required by Kansas Statute to be paid upon Mortgages upon real property, were duly paid by Plaintiff.

12. For the purpose of securing the payment of the debt evidenced by Note 1, all other past and future obligations owed to Plaintiff, and all obligations described herein, Defendant Howison Heights, Inc. executed and delivered to Plaintiff a real estate mortgage, in writing, dated July 19, 2010 (hereinafter "Mortgage 3"), whereby it mortgaged and warranted to Plaintiff all of the above described HH Real Estate. Defendant Howison Heights, Inc. was at the time of the making, execution and delivery of Mortgage 3 the owner of said HH Real Estate, free and clear of any other liens or encumbrances with the exception of the first and prior mortgages and fixture filings of The Bennington State Bank, as hereafter described in paragraph 17 below, and with the exception of Plaintiff's Mortgage 1 and Mortgage 2 described in the preceding four (4) paragraphs. A true and correct copy of Mortgage 3, with all exhibits thereto and endorsements thereon is attached hereto, marked Exhibit E, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

13. Mortgage 3 that is attached hereto as Exhibit E in the principal amount of \$275,000.00, together with interest and other charges, was duly filed for record in the office of the Register of Deeds of Saline County, Kansas on August 24, 2010, at Book 1216, at Page 732, in said office, and all taxes and fees, and in particular the registration fee required by Kansas Statute to be paid upon Mortgages upon real property, were duly paid by Plaintiff.

Security Agreement, Financing Statement, and Fixture Filings

14. Note 1 is further secured by a Security Agreement, in writing, dated August 4, 2006 (hereinafter "Security Agreement"), from Borrower to Plaintiff whereby Borrower granted Plaintiff a security interest in, among other things, all of its interest in inventory, accounts and other rights to payment, instruments, documents, farm products and supplies, government payments and programs, investment property, deposit accounts, chattel paper, general intangibles, equipment, and fixtures (collectively referred to hereinafter as "HH Personal Property"). A true and correct copy of the Security Agreement with all endorsements thereon is attached hereto, marked Exhibit F, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

15. Plaintiff has a perfected security interest in the HH Personal Property enumerated in the Security Agreement. A true and correct copy of the Financing Statement filed by Plaintiff with the Kansas Secretary of State on August 11, 2006, together with the continuation thereof filed on July 1, 2011 (collectively "Financing Statement"), is attached hereto, marked Exhibit G, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

16. In addition, by virtue of filing Mortgage 1, Mortgage 2, and Mortgage 3 (hereinafter collectively "the HH Mortgages"), Plaintiff has a perfected security interest in all

fixtures located on the above-described HH Real Estate.

Other Defendants

17. The Bennington State Bank is named as a party Defendant by virtue of its first and prior mortgage liens on the HH Real Estate, to wit:

- a. A Mortgage in the amount of \$147,000.00 from Howison Heights, Inc, and Tim B. Howison and Melinda S. Howison, husband and wife, to The Bennington State Bank, dated June 13, 1997, and filed for record in the Office of the Register of Deeds of Saline County, Kansas on August 11, 1998, in Book 594, Pages 411-414;
- b. A Mortgage in the amount of \$103,000.00 from Howison Heights, Inc, and Tim B. Howison a/k/a Timothy B. Howison and Melinda S. Howison, husband and wife, to The Bennington State Bank, dated January 28, 2002, and filed for record in the Office of the Register of Deeds of Saline County, Kansas on January 31, 2002, in Book 1004, Page 1793.

18. The Bennington State Bank is also named as a party Defendant by virtue of its first and prior perfected security interest in the fixtures located on the HH Real Estate and the HH Personal Property, as evidenced by the following:

- a. Financing Statements #11-168, #11-169, #8-35, and #8-36 filed with the Office of the Saline County Register of Deeds, on November 16, 1992; November 16, 1992; August 12, 1998; and August 12, 1998, respectively, together with continuations thereof.
- b. Financing Statements #001851124, #002362525, and #002362526, filed with the Kansas Secretary of State on November 10, 1992; June 16, 1997; and June 16, 1997, respectively, together with continuations thereof.

19. Timothy B. Howison, Melinda S. Howison, and The Howison Trust are named as party Defendants by virtue of their interest, if any, in the HH Real Estate and HH Personal Property described herein. Plaintiff states and alleges that whatever right, title, interest, or claim or lien which Defendants Timothy B. Howison, Melinda S. Howison, or The Howison Trust, and their predecessors, successors, and assigns, have or claim to have, whether known or unknown to Plaintiff, in or to said HH Real Estate and HH Personal Property described herein is junior and

inferior to the rights of Plaintiff, and that said Defendants, and their predecessors, successors, and assigns, should be forever barred and foreclosed from claiming any right, title, interest, claim, or lien in or to said HH Real Estate and HH Personal Property adverse or superior to the interest of Plaintiff.

Default; Acceleration; Balance; Costs and Expenses; Foreclosure of Liens

20. Plaintiff is the owner and holder of Note 1, Note 1 Modifications, HH Mortgages, Security Agreement, and Financing Statement that are attached hereto as Exhibits A through G (collectively referred to hereinafter as "the HH Loan Documents").

21. By the terms and provisions of Note 1, Defendants Howison Heights, Inc. and Timothy B. Howison promised and agreed to make payments to Plaintiff until the entire indebtedness, including principal and interest, was paid in full thereon, all as more fully stated in Note 1; Note 1 matured on December 15, 2010, and Defendants Howison Heights, Inc. and Timothy B. Howison have failed, neglected, and refused to carry out the terms of Note 1 in that they have failed to pay and discharge Note 1 prior to its maturity on December 15, 2010; and Defendants Howison Heights, Inc. and Timothy B. Howison are therefore in default under the terms of Note 1.

22. The entire balance on Note 1, together with interest thereon and fees, costs, and expenses under the HH Loan Documents, is now due and owing; and Plaintiff is now entitled to judgment against Defendants Howison Heights, Inc. and Timothy B. Howison, jointly and severally, for the entire matured and unpaid principal balance plus interest, until paid in full, together with any and all costs, fees, and expenses (for items such as insurance, appraisal fees, taxes, court costs, and publication fees) incurred by Plaintiff and chargeable under the terms of the HH Loan Documents, until paid in full.

23. As of November 19, 2012, there remained due and owing to Plaintiff on Note 1 the principal amount of \$275,000.00, plus accumulated interest of \$59,414.00, plus other loan charges of \$500.00, for a total balance due and owing of \$334,914.00, with interest accruing thereafter on the unpaid principal balance at the contractual default rate of 12.0% per annum, until paid in full. Plaintiff is entitled to judgment against Defendants Howison Heights, Inc. and Timothy B. Howison, jointly and severally, for said amounts accrued and hereafter accruing, until paid in full.

24. As a part of this foreclosure and incidental thereto, Plaintiff has paid for abstracting expenses in the amount of \$250.00 as it was entitled to do under the terms of the HH Loan Documents, and that said expenses are due and payable to Plaintiff with interest thereon at the contractual default rate of 12.0% per annum, until paid in full. Plaintiff is entitled to judgment against Defendants Howison Heights, Inc. and Timothy B. Howison, jointly and severally, for said expenses.

25. As a part of this foreclosure and incidental thereto, Plaintiff is compelled to pay reasonable costs of collection, including, but not limited to Court costs and attorneys' fees and expenses in the initial amount of \$3,500.00; and said costs, fees, and expenses are due and payable to Plaintiff in accordance with the HH Loan Documents. Plaintiff is entitled to judgment against Defendants Howison Heights, Inc. and Timothy B. Howison, jointly and severally, for said costs, fees, and expenses in the initial amount of \$3,500.00, plus any additional costs, fees, and expenses thereafter accruing through the date of the final judicial sale in this action.

26. The HH Mortgages are now in default, subject to foreclosure, and should be forthwith foreclosed as provided by law; and the total amount found due Plaintiff on Note 1 should be decreed THIRD priority liens on the above described HH Real Estate and

improvements thereon, subject only to the first and prior mortgages of The Bennington State Bank, dated June 13, 1997 and January 28, 2002, in the original principal amounts of \$147,000 and \$103,000.00, respectively.

Foreclosure; Redemption Rights; Other Relief

27. That by reason of the matters above set forth, Plaintiff is entitled to have its HH Mortgages foreclosed as a liens upon the above described HH Real Estate, subject only to the first and prior mortgage liens of Defendant The Bennington State Bank; that some or all of the Defendants, excepting The Bennington State Bank, have or claim to have some right, title, or interest in or lien on some or all of said Real Estate, but whatever rights said Defendants have in the HH Real Estate is inferior and subject to the first and prior lien of the Mortgages, and should be so adjudged.

28. Any judicial sale of the above-described HH Real Estate shall be subject to The Bennington State Bank's first mortgages dated June 13, 1997 and January 28, 2002, in the original principal amounts of \$147,000 and \$103,000.00, respectively; or, in the alternative, if The Bennington State Bank elects to foreclose its mortgages, then the proceeds arising from any judicial sale of the HH Real Estate shall be applied to any amounts secured by The Bennington State Bank's mortgages before any such proceeds are applied to payment of Plaintiff's judgments herein.

29. That Mortgage 1 does not cover agricultural lands or single or two-family dwellings owned by or held in trust for natural persons; that the mortgagor agreed to wholly waive the period of redemption as set forth in Mortgage 1; and that no redemption period should be allowed to the Defendant owner(s) in accordance with K.S.A. §§ 60-2414(a) and 60-2410(e).

30. That by reason of the matters above set forth, Plaintiff is entitled to an Order directing that the Security Agreement and corresponding perfected security interest in the fixtures on the HH Real Estate and all of the HH Personal Property be foreclosed and declared as a lien upon said collateral; that some or all of the Defendants have or may claim to have some right, title, claim, lien, judgment, mortgage, or interest in the fixtures on the HH Real Estate and all of the Personal Property, but whatever rights these Defendants, with the exception of Defendant The Bennington State Bank, have are inferior and subject to the prior liens of Plaintiff, as set forth and established under the HH Loan Documents and should be so adjudged.

31. Because of Defendant Borrower's default, Plaintiff is entitled to immediate possession of all of the HH Personal Property (except fixtures on the HH Real Estate), and to an Order of this Court adjudging and directing foreclosure of Plaintiff's security interests therein. Further, by the terms of the Security Agreement, it is provided that in the event of default, Plaintiff may take possession of and sell said HH Personal Property (except fixtures on the HH Real Estate) to satisfy the debts to Plaintiff pursuant to Note 1.

32. Plaintiff asserts that the net proceeds realized from the foreclosure and sale of the HH Personal Property (except fixtures on the HH Real Estate) should first be credited against the amounts secured by Defendant The Bennington State Bank's first and prior liens thereon, with the remaining proceeds thereof credited against the money judgment sought on Plaintiff's Note 1 hereunder, until paid in full; or, in the alternative, that the net sales proceeds from any such sale be applied as may otherwise be agreed pursuant to a joint liquidation plan between Plaintiff and Defendant The Bennington State Bank.

WHEREFORE, Plaintiff prays for the following relief:

A. That the Court grant Plaintiff judgment against Defendants Howison Heights, Inc. and Timothy B. Howison, jointly and severally, for: (1) the principal amount of \$275,000.00, plus accumulated interest of \$59,414.00, plus other loan charges of \$500.00, for a total balance due and owing of \$334,914.00, with interest accruing after September 19, 2012 on the unpaid principal balance at the contractual default rate of 12.0% per annum, until paid in full; (2) late charges, abstracting expenses (in the initial amount of \$250.00), advancements made for taxes and insurance, and reasonable costs of collection (in the initial amount of \$3,500.00, or in an amount as may be subsequently determined and awarded by the Court), both accrued and hereafter accruing, until paid in full; and (3) all other sums of fees, costs, and expenses (for items such as insurance, appraisal fees, taxes, court costs, and publication fees) incurred by Plaintiff and chargeable under the terms of the HH Loan Documents against the HH Real Estate hereinbefore described, both accrued and hereafter accruing, until paid in full.

B. That the Court enter its judgment and decree herein determining that the HH Mortgages of Plaintiff set forth in this Petition be decreed liens upon all of said HH Real Estate, subject only to the first and prior mortgage liens of The Bennington State Bank, and prior and superior to any and all rights, mortgages, judgments, possessory rights, claims, and liens of all other Defendants in this action.

C. That an Order be issued by the Court foreclosing the HH Mortgages of Plaintiff forthwith.

D. That the Court find that the mortgagors under the Mortgages agreed to wholly waive the period of redemption; and Order that no redemption period shall be allowed to the Defendant owner(s) in accordance with K.S.A. §§ 60-2414(a) and 60-2410(e).

E. That, if the principal and interest found due Plaintiff herein is not paid within fourteen (14) days after the date of said judgment, an Order of Sale then be issued from this Court under the seal thereof directed to the Sheriff of Saline County, Kansas commanding him to advertise and sell the HH Real Estate and fixtures thereon, in its entirety and not in parcels, without appraisalment, according to law, and to apply the proceeds of said sale as follows:

- FIRST: To the payment of the costs of this action, including the costs of sale;
- SECOND: To the payment of all real estate taxes or assessments found to be due and unpaid on the real estate, if any;
- THIRD: To the payment of the judgment amount with interest, fees, costs, and expenses found due Plaintiff pursuant to the HH Loan Documents as described herein;
- FOURTH: To the payment of Plaintiff's judgment lien arising from Plaintiff's Count II herein; and
- FIFTH: The balance, if any, to be paid to the Clerk of this Court, subject to the further Order of this Court.

F. Any judicial sale of the above-described HH Real Estate shall be subject to The Bennington State Bank's first mortgages dated June 13, 1997 and January 28, 2002, in the original principal amounts of \$147,000 and \$103,000.00, respectively; or, in the alternative, if The Bennington State Bank elects to foreclose its mortgages, then the proceeds arising from any judicial sale of the HH Real Estate shall be applied to any amounts secured by The Bennington State Bank's mortgages before any such proceeds are applied to payment of Plaintiff's liens set forth herein.

G. Plaintiff further prays that, from and after the Sheriff's Sale, all Defendants, excepting only The Bennington State Bank, and all persons claiming by, through, and under them be forever barred, foreclosed, and precluded from setting up or claiming any right, title, interest, claim and lien of any nature, kind or character, in and to the HH Real Estate above

described, excepting only the right to redeem the premises as provided by law.

H. That, upon said sale being made and confirmed, and upon expiration of the period of redemption, if any, the Sheriff be ordered and directed to execute and deliver to the purchaser at the sale, or its successors or assigns, as the case may be, a good and sufficient Sheriff's Deed for all of said HH Real Estate; and that a Writ of Assistance issue out of this Court placing the grantee in full and complete possession of all of the HH Real Estate purchased at the Sheriff's Sale.

I. Plaintiff further requests that in the event the HH Real Estate is abandoned or becomes vacant, the Plaintiff, or its assigns, may secure said property to prevent waste.

J. That Plaintiff be granted immediate possession of the HH Personal Property enumerated in the Security Agreement.

K. That the perfected security interest and liens of Plaintiff to the HH Personal Property be ordered foreclosed and decreed as a lien on all of said collateral, subordinate only to the first and prior lien of Defendant The Bennington State Bank.

L. That the priority of any and all claims to the HH Personal Property between Plaintiff and any other parties herein be determined by the Court.

M. That this Court issue an Order for the Delivery of Property or Writ of Special Execution, as the case may be, giving Plaintiff possession of the tangible HH Personal Property described herein (except fixtures on the HH Real Estate) in accordance with the terms and conditions of the Security Agreement, and pursuant to Plaintiff's rights under the law.

N. That this Court issue an Order for the Delivery of Property or Writ of Special Execution directing the appropriate Sheriff to take possession of the tangible HH Personal Property (except fixtures on the HH Real Estate) as described above, wherever it may be, and

deliver the same to Plaintiff.

O. That the HH Personal Property be sold according to law, including Revised Article 9 of the Kansas Uniform Commercial Code and under the terms of the HH Loan Documents.

P. That the net proceeds realized from a foreclosure and sale of the HH Personal Property (except fixtures on the HH Real Estate) be Ordered credited against the amounts secured by Defendant The Bennington State Bank's first and prior liens thereon, with the remaining proceeds thereof credited against the money judgment sought on Plaintiff's Note 1 hereunder, until paid in full; or, in the alternative, that the net sales proceeds from any such sale be applied as may otherwise be agreed pursuant to a joint liquidation plan between Plaintiff and Defendant The Bennington State Bank.

Q. Plaintiff further prays for such other and further relief on Count I as the Court deems just, proper, and equitable.

COUNT II

(Against Timothy B. Howison, Melinda S. Howison, and The Howison Trust)

33. On or about December 30, 2008, for value received, and in consideration of a loan in the amount of \$77,800.00 made by Plaintiff, Defendants Timothy B. Howison and Melinda S. Howison made, executed and delivered to Plaintiff a Note (hereinafter "Note 2"), in writing, and by the terms of which they promised and agreed to pay said amount in installments as stated in Note 2. A true and correct copy of Note 2 with all endorsements thereon is attached hereto, marked Exhibit H, and incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

34. For the purpose of securing the payment of the debt evidenced by Note 2, Timothy B. Howison and Melinda S. Howison executed and delivered to Plaintiff a real estate

Mortgage, in writing, dated January 9, 2007 (hereinafter "Mortgage 4"), whereby they mortgaged to Plaintiff all of the following described real estate located in Saline County, Kansas, to wit:

Lot Eight (8), in Big Valley Addition P.U.D., in Saline County, Kansas, less a tract more particularly described as follows:

Beginning at the Southeast corner of said Lot Eight (8), thence S90°00'00"W, on an assumed bearing, along the South line of said lot Eight (8), a distance of 20.00 feet; thence N0°00'00"E, parallel with the East line of said Lot Eight (8), a distance of 255.58 feet; thence N4°17'21"E a distance of 126.82 feet to a point on the North line of said Lot Eight (8); thence N72°48'40"E along said North line, a distance of 11.01 feet to a point on the East line of said Lot Eight (8); thence S0°00'00"W along said East line of said Lot Eight (8), a distance of 385.30 feet to the point of beginning.

Timothy B. Howison and Melinda S. Howison were at the time of the making, execution and delivery of Mortgage 4 the absolute owners of the above-described real estate, free and clear of any other liens or encumbrances. A true and correct copy of Mortgage 4 with all endorsements thereon is attached hereto, marked Exhibit I, and is incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

35. Mortgage 4 that is attached hereto as Exhibit I in the amount of \$79,000.00, together with interest and other charges, was duly filed for record in the office of the Register of Deeds of Saline County, Kansas on January 10, 2007, in Book 1143, at Page 1188, in said office, and all taxes and fees, and in particular the registration fee required by Kansas Statute to be paid upon Mortgages upon real property, were duly paid by Plaintiff.

36. The debt evidenced by Note 2 is further secured by a real estate Mortgage, in writing, dated October 17, 2008 (hereinafter "Mortgage 5"), from Roger K. Siemson and Jennifer L. Siemson to Plaintiff, whereby Roger K. Siemson and Jennifer L. Siemson mortgaged to Plaintiff all of the following described real estate located in Saline County, Kansas, to wit:

Lot Fourteen (14), Block Seven (7), River Trail Addition to the City of Salina,
Saline County, Kansas.

Roger K. Siemson and Jennifer L. Siemson were at the time of the making, execution and delivery of Mortgage 5 the absolute owners of the above-described real estate, free and clear of any other liens or encumbrances. A true and correct copy of Mortgage 5 with all endorsements thereon is attached hereto, marked Exhibit J, and is incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

37. Mortgage 5 that is attached hereto as Exhibit J in the amount of \$105,000.00, together with interest and other charges, was duly filed for record in the office of the Register of Deeds of Saline County, Kansas on December 24, 2008, in Book 1184, at Page 401, in said office, and all taxes and fees, and in particular the registration fee required by Kansas Statute to be paid upon Mortgages upon real property, were duly paid by Plaintiff.

38. The real estate mortgaged to Plaintiff pursuant to Mortgage 5 was subsequently conveyed to Defendants Timothy B. Howison and Melinda S. Howison subject to the encumbrance of Mortgage 5.

39. Note 2 is also secured by a Security Agreement, in writing, dated May 17, 2007, and a Security Agreement, in writing, dated June 18, 2008, (hereinafter, collectively, "Security Agreement"), from Timothy B. Howison and Melinda S. Howison to Plaintiff, whereby Defendants Timothy B. Howison and Melinda S. Howison granted Plaintiff a security interest in, among other things, all of their interest in accounts and other rights to payments, inventory, equipment, instruments and chattel paper, general intangibles, documents, farm products and supplies, government payments and programs, investment property, and deposit accounts (collectively referred to hereinafter as "Personal Property"). A true and correct copy of the Security Agreement with all endorsements thereon is attached hereto, marked Exhibit K, and

incorporated herein by reference and made a part hereof to the same extent and in the same manner as if herein set forth.

40. Plaintiff has a perfected security interest in the Personal Property enumerated in the Security Agreement as evidenced by the Financing Statement filed with the Kansas Secretary of State on August 11, 2006, a copy of which is attached hereto as Exhibit G (referenced in Count I), and as evidenced by a Financing Statement filed with the Kansas Secretary of State on July 28, 2009, bearing filing number 097263651 (collectively the "Financing Statements").

41. Plaintiff is the owner and holder of Note 2, Mortgage 4, Mortgage 5, Security Agreement, and the Financing Statements (hereinafter collectively "the Loan Documents").

42. There has been a default under the terms of the Loan Documents for, among other things, the following reasons: (1) Plaintiff's insecurity as a result of the payment default under Note 1 (referenced in Count I above); (2) failure to pay the 2010 and 2011 real estate taxes and assessments on the real estate encumbered by Mortgage 4 and Mortgage 5; (3) failure to make payments on Note 2 when due; and (4) Plaintiff's insecurity as a result of the foregoing.

43. Plaintiff accelerated the maturity of Note 2 on March 29, 2012 because of the aforesaid defaults; the entire principal balance, together with interest, fees, costs, and expenses, is now due and payable; and Plaintiff is entitled to judgment against Defendants Timothy B. Howison and Melinda S. Howison, jointly and severally, for the total accelerated balance, together with interest, fees, costs, and expenses (for items such as insurance, taxes, court costs, and publication fees) incurred by Plaintiff and chargeable under the terms of the Loan Documents subsequent to the date of default, until paid in full.

44. As of November 19, 2012, there remained due and owing to Plaintiff on Note 2 the principal amount of \$52,578.22, plus accumulated interest of \$8,421.21, plus accumulated late charges of \$528.61, for a total balance due and owing of \$61,528.04, with interest accruing thereafter on the unpaid principal balance at the contract rate of 12.00% per annum until paid in full. Plaintiff is entitled to judgment against Defendants Timothy B. Howison and Melinda S. Howison, jointly and severally, for said amounts accrued and hereafter accruing until paid in full.

45. That as a part of this foreclosure and incidental thereto, Plaintiff has paid for abstracting expenses in the amount of \$250.00 as it was entitled to do under the terms of the Loan Documents. Plaintiff is entitled to judgment against Defendants Timothy B. Howison and Melinda S. Howison, jointly and severally, for said amounts accrued and hereafter accruing until paid in full.

46. As a part of this foreclosure and incidental thereto, Plaintiff is compelled to pay reasonable costs of collection, including, but not limited to Court costs and attorneys' fees and expenses in the initial amount of \$3,500.00; and said costs, fees, and expenses are due and payable to Plaintiff in accordance with the Loan Documents. Plaintiff is entitled to judgment against Defendants Timothy B. Howison and Melinda S. Howison, jointly and severally, for said costs and fees accrued and hereafter accruing until paid in full.

47. The Bennington State Bank is named as a party Defendant by virtue of its first and prior perfected security interest in the Personal Property, as evidenced by multiple Financing Statements filed with the Kansas Secretary of State, together with continuations thereof.

48. Mortgage 4 and Mortgage 5 are now in default and are subject to foreclosure and should be forthwith foreclosed as provided by law, and the total amount found due Plaintiff on Note 2 should be decreed a first and prior lien on all of said real estate.

49. That by reason of the matters above set forth, Plaintiff is entitled to have Mortgage 4 and Mortgage 5 foreclosed as a first and prior lien upon the above described real estate; that some or all of the Defendants have or claim to have some right, title, or interest in or lien on some or all of said real estate, but whatever rights said Defendants have in the real estate is inferior and subject to the first and prior lien of Mortgage 4 and Mortgage 5, and should be so adjudged.

50. That the Mortgages do not cover agricultural lands or single or two-family dwellings owned by or held in trust for natural persons; that the mortgagors agreed to wholly waive the period of redemption as set forth in the Mortgages; and that no redemption period should be allowed to the Defendant owner(s) in accordance with K.S.A. §§ 60-2414(a) and 60-2410(e).

51. That by reason of the matters above set forth, Plaintiff is entitled to an Order directing that the Security Agreement and corresponding perfected security interest in the Personal Property be foreclosed and declared as a lien upon said collateral; that some or all of the Defendants have or may claim to have some right, title, claim, lien, judgment, mortgage, or interest in the Personal Property, but whatever rights these Defendants, with the exception of Defendant The Bennington State Bank, have are inferior and subject to the prior liens of Plaintiff, as set forth and established under the Loan Documents and should be so adjudged.

52. Because of Defendant Borrower's default, Plaintiff is entitled to immediate possession of all of the Personal Property, and to an Order of this Court adjudging and directing foreclosure of Plaintiff's security interests therein. Further, by the terms of the Security Agreement, it is provided that in the event of default, Plaintiff may take possession of and sell said Personal Property to satisfy the debts to Plaintiff pursuant to Note 2.

53. Plaintiff asserts that the net proceeds realized from the foreclosure and sale of the Personal Property should first be credited against the amounts secured by Defendant The Bennington State Bank's first and prior liens thereon, with the remaining proceeds thereof credited against the money judgment sought on Plaintiff's Note 2 hereunder, until paid in full; or, in the alternative, that the net sales proceeds from any such sale be applied as may otherwise be agreed pursuant to a joint liquidation plan between Plaintiff and Defendant The Bennington State Bank.

WHEREFORE, Plaintiff prays for the following relief:

A. With respect to Note 2, that the Court grant Plaintiff judgment against Defendants Timothy B. Howison and Melinda S. Howison, jointly and severally, for: (1) the principal amount of \$52,578.22, plus accumulated interest of \$8,421.21, plus accumulated late charges of \$528.61, for a total balance due and owing of \$61,528.04, with interest accruing from and after November 19, 2012 on the unpaid principal balance at the contract rate of 12.00%, until paid in full; (2) late charges, abstracting expenses (in the amount of \$250.00), advancements made for taxes and insurance, and Plaintiff's reasonable costs of collection (in the initial amount of \$3,500.00), both accrued and accruing until paid in full; and (3) all other sums of fees, costs, and expenses (for items such as insurance, taxes, court costs, and publication fees) incurred by Plaintiff and chargeable under the terms of Note 2, Mortgage 4, and Mortgage 5 against the real estate hereinbefore described, both accrued and accruing until paid in full.

B. That the Court enter its judgment and decree herein determining that Mortgage 4 and Mortgage 5 set forth in this Petition be decreed a first and prior lien upon all of said real estate, prior and superior to any and all rights, mortgages, judgments, possessory rights, claims, and liens of all Defendants in this action.

C. That an Order be issued by the Court foreclosing Mortgage 4 and Mortgage 5 of forthwith.

D. That the Court find that the mortgagors under Mortgage 4 and Mortgage 5 agreed to wholly waive the period of redemption; and Order that no redemption period shall be allowed to the Defendant owner(s) in accordance with K.S.A. §§ 60-2414(a) and 60-2410(e).

E. That, if the principal and interest found due Plaintiff herein is not paid within fourteen (14) days after the date of said judgment, an Order of Sale then be issued from this Court under the seal thereof directed to the Sheriff of Saline County, Kansas commanding him to advertise and sell the real estate hereinbefore described according to law, and to apply the proceeds of said sale as follows:

- FIRST: To the payment of the costs of this action, including the costs of sale;
- SECOND: To the payment of all real estate taxes or assessments found to be due and unpaid on the real estate, if any;
- THIRD: To the payment of the judgment amount with interest, fees, costs, and expenses found due Plaintiff pursuant to the Loan Documents as described herein;
- FOURTH: To the payment of Plaintiff's judgment lien arising from Plaintiff's Count I herein; and
- FIFTH: The balance, if any, to be paid to the Clerk of this Court, subject to the further Order of this Court.

F. Plaintiff further prays that, from and after the judicial sale, all Defendants and all persons claiming by, through, and under them be forever barred, foreclosed, and precluded from setting up or claiming any right, title, interest, claim, lien, and possessory rights of any nature, kind or character, in and to the real estate above described, excepting only the right to redeem the premises as provided by law.

G. That, upon said sale being made and confirmed and upon expiration of the period of redemption, the Sheriff of Saline County, Kansas be ordered and directed to execute and deliver to the purchaser at the sale, or its successors or assigns, as the case may be, a good and sufficient Sheriff's Deed for all of said real estate; and that a Writ of Assistance issue out of this Court placing the Grantee in full and complete possession of all of the real estate purchased at the judicial sale.

H. Plaintiff further requests that in the event the real estate is abandoned or becomes vacant, Plaintiff, or its assigns, may secure said property to prevent waste.

I. That Plaintiff be granted immediate possession of the Personal Property enumerated in the Security Agreement.

J. That the perfected security interest and liens of Plaintiff to the Personal Property be ordered foreclosed and decreed as a lien on all of said collateral, subordinate only to the first and prior lien of Defendant The Bennington State Bank.

K. That the priority of any and all claims to the Personal Property between Plaintiff and any other parties herein be determined by the Court.

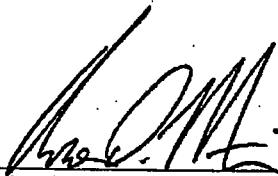
L. That this Court issue an Order for the Delivery of Property or Writ of Special Execution, as the case may be, giving Plaintiff possession of the tangible Personal Property described herein in accordance with the terms and conditions of the Security Agreement, and pursuant to Plaintiff's rights under the law.

M. That this Court issue an Order for the Delivery of Property or Writ of Special Execution directing the appropriate Sheriff to take possession of the tangible Personal Property as described above, wherever it may be, and deliver the same to Plaintiff.

N. That the Personal Property be sold according to law, including Revised Article 9 of the Kansas Uniform Commercial Code and under the terms of the Loan Documents.

O. That the net proceeds realized from a foreclosure and sale of the Personal Property be Ordered credited against the amounts secured by Defendant The Bennington State Bank's first and prior liens thereon, with the remaining proceeds thereof credited against the money judgment sought on Plaintiff's Note 2 hereunder, until paid in full; or, in the alternative, that the net sales proceeds from any such sale be applied as may otherwise be agreed pursuant to a joint liquidation plan between Plaintiff and Defendant The Bennington State Bank.

P. Plaintiff further prays for such other and further relief on Count II as the Court deems just, proper, and equitable.



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Tel. (785) 823-6325; Fax (785) 823-1868
mpalley@cml-law.com
aomartin@cml-law.com
Attorneys for Plaintiff, Central National Bank

EXHIBIT A

(page 2 of 2)

EXHIBIT B

(48) HAA0144
Append

Central National Bank
Loan Modification Agreement

This agreement relates to Loan #: 26911 Originally Dated: 8/4/2006
Borrower(s): Howison Heights, Inc. This agreement dated: 1/17/2007
Timothy B. Howison Modification Fee: \$ 150.00

Definitions: As used in this agreement, the term "I" means the Borrower(s) named above; "You" means the Lender named above; "Original Obligation" means my previous agreement to pay you money (referred to above by Loan Number and original date), and any related agreements such as a security agreement.

By entering into this agreement, we are modifying one or more of the following terms or conditions of the original obligation:

Maturity Date: ☐ Yes ☒ No
Modification: _____

Payment Date: ☐ Yes ☒ No
Modification: _____

Interest Rate: ☐ Yes ☒ No
Modification: _____


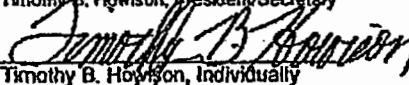
Amount/Credit Line: ☒ Yes ☐ No
Modification: Allow a one-time advance of \$40,150.00, making the current balance \$150,300.00. This advance includes the mod fee.

Collateral/Security: ☒ Yes ☐ No
Modification: Add a Real Estate Mortgage dated 1/17/2007 as additional collateral.

Reason for Modification: Provide additional funds to set stand pipe.

This agreement does not, in any way, satisfy or cancel the original obligation. Except as specifically amended by this agreement, all other terms of the original obligation remain in effect. This means and includes, but is not limited to: (1) Property which secures the original obligation will continue to secure my total responsibility to pay you as amended by this agreement. (2) All parties who have a responsibility to pay you in any way the original obligation (including any co-makers, endorsers and guarantors) remain responsible for the total amount I owe you as amended by this agreement. If you require the consent to this extension by any additional party, I agree to obtain such consent, and this extension agreement will not be effective if the consent is not obtained. (3) Any post maturity interest rate provided for in the original obligation (except as specifically contracted for here) shall now begin to apply after the last scheduled payment of the original obligation as amended by this agreement. (4) You will not be responsible to further extend the payments affected by this agreement or any other scheduled payments. All other scheduled payments not affected by this agreement shall remain due as previously scheduled. (5) All provisions for default, remedies, attorneys' fees (if any) etc, remain in effect. (6) My responsibility (if any) to provide insurance on the property which secures the original obligation (if any) shall remain in effect. However, the term of such insurance policy will not be extended to cover any additional term resulting from this agreement unless contracted for and any additional premium is paid. (7) The term for any Credit Life and/or Disability Insurance coverages purchased in connection with the original obligation will not be extended for the additional term provided for in this agreement unless contracted for and any additional premium paid. (8) This document, together with other written agreements of the parties, is the final expression of the agreement between the parties. This document may not be contradicted by evidence of prior or contemporaneous oral agreements of the parties.


Lender Representative Signature


Timothy B. Howison, President/Secretary

Timothy B. Howison, Individually

150.00
34.26
115.74
150.00
265.74

Central National Bank
Loan Modification Agreement

This agreement relates to Loan #: 66911 Originally Dated: 8/4/2006

Borrower(s): Howison Heights, Inc. This agreement dated: 7/20/2007

Timothy B. Howison

Modification Fee: _____

Definitions: As used in this agreement, the term "I" means the Borrower(s) named above; "You" means the Lender named above; "Original Obligation" means my previous agreement to pay you money (referred to above by Loan Number and original date), and any related agreements such as a security agreement.

By entering into this agreement, we are modifying one or more of the following terms or conditions of the original obligation:

Maturity Date: ☐ Yes ☒ No

Modification: _____

Payment Date: ☐ Yes ☒ No

Modification: _____

Interest Rate: ☐ Yes ☒ No

Modification: _____

Amount/Credit Line: ☒ Yes ☐ No

Modification: Increase from \$150,300.00 to \$180,300.00.

Collateral/Security: ☐ Yes ☒ No

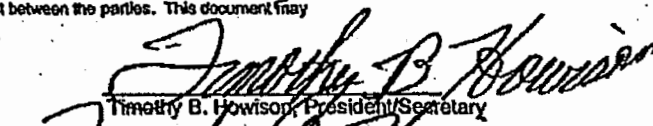
Modification: _____

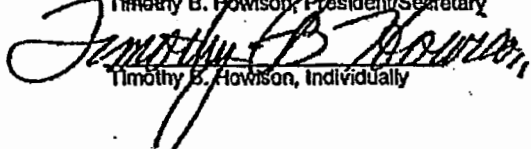
Reason for Modification: Increase loan amount.

This agreement does not, in any way, satisfy or cancel the original obligation. Except as specifically amended by this agreement, all other terms of the original obligation remain in effect. This means and includes, but is not limited to: (1) Property which secures the original obligation will continue to secure my total responsibility to pay you as amended by this agreement. (2) All parties who have a responsibility to pay you in any way the original obligation (including any co-makers, endorsers and guarantors) remain responsible for the total amount I owe you as amended by this agreement. If you require the consent to this extension by any additional party, I agree to obtain such consent, and this extension agreement will not be effective if the consent is not obtained. (3) Any post maturity interest rate provided for in the original obligation (except as specifically contracted for here) shall now begin to apply after the last scheduled payment of the original obligation as amended by this agreement. (4) You will not be responsible to further extend the payments affected by this agreement or any other scheduled payments. All other scheduled payments not affected by this agreement shall remain due as previously scheduled. (5) All provisions for default, remedies, attorneys' fees (if any) etc, remain in effect. (6) My responsibility (if any) to provide insurance on the property which secures the original obligation (if any) shall remain in effect. However, the term of such insurance policy will not be extended to cover any additional term resulting from this agreement unless contracted for and any additional premium is paid. (7) The term for any Credit Life and/or Disability Insurance coverages purchased in connection with the original obligation will not be extended for the additional term provided for in this agreement unless contracted for and any additional premium paid. (8) This document, together with other written agreements of the parties, is the final expression of the agreement between the parties. This document may not be contradicted by evidence of prior or contemporaneous oral agreements of the parties.



Lender Representative Signature



Timothy B. Howison, President/Secretary


Timothy B. Howison, Individually

148 Amend
HARRISON

Central National Bank
Loan Modification Agreement

This agreement relates to Loan #: 6911 Originally Dated: 8/4/2006

Borrower(s): Howison Heights, Inc. This agreement dated: 9/26/2007

Timothy B. Howison

Modification Fee: _____

Definitions: As used in this agreement, the term "I" means the Borrower(s) named above; "You" means the Lender named above; "Original Obligation" means my previous agreement to pay you money (referred to above by Loan Number and original date), and any related agreements such as a security agreement.

By entering into this agreement, we are modifying one or more of the following terms or conditions of the original obligation:

Maturity Date: ☐ Yes ☒ No

Modification: _____

Payment Date: ☐ Yes ☒ No

Modification: _____

Interest Rate: ☐ Yes ☒ No

Modification: _____

Amount/Credit Line: ☒ Yes ☐ No

Modification: Increase from \$180,300.00 to \$210,300.00.

Collateral/Security: ☐ Yes ☒ No

Modification: _____

Reason for Modification: Additional business expenses.

This agreement does not, in any way, satisfy or cancel the original obligation. Except as specifically amended by this agreement, all other terms of the original obligation remain in effect. This means and includes, but is not limited to: (1) Property which secures the original obligation will continue to secure my total responsibility to pay you as amended by this agreement. (2) All parties who have a responsibility to pay you in any way the original obligation (including any co-makers, endorsers and guarantors) remain responsible for the total amount I owe you as amended by this agreement. If you require the consent to this extension by any additional party, I agree to obtain such consent, and this extension agreement will not be effective if the consent is not obtained. (3) Any post maturity interest rate provided for in the original obligation (except as specifically contracted for here) shall now begin to apply after the last scheduled payment of the original obligation as amended by this agreement. (4) You will not be responsible to further extend the payments affected by this agreement or any other scheduled payments. All other scheduled payments not affected by this agreement shall remain due as previously scheduled. (5) All provisions for default, remedies, attorneys' fees (if any) etc. remain in effect. (6) My responsibility (if any) to provide insurance on the property which secures the original obligation (if any) shall remain in effect. However, the term of such insurance policy will not be extended to cover any additional term resulting from this agreement unless contracted for and any additional premium is paid. (7) The term for any Credit Life and/or Disability Insurance coverages purchased in connection with the original obligation will not be extended for the additional term provided for in this agreement unless contracted for and any additional premium paid. (8) This document, together with other written agreements of the parties, is the final expression of the agreement between the parties. This document may not be contradicted by evidence of prior or contemporaneous oral agreements of the parties.

Jay D. [Signature]
Lender Representative Signature

Timothy B. Howison
Timothy B. Howison, President/Secretary

Timothy B. Howison
Timothy B. Howison, Individually

Central National Bank
Loan Modification Agreement

This agreement relates to Loan #: 00006911 Originally Dated: 8/4/2006

Borrower(s): Howison Heights, Inc This agreement dated: 12/28/2007

Timothy B. Howison Modification Fee: _____

Definitions As used in this agreement, the term "I" means the Borrower(s) named above, "You" means the Lender named above, "Original Obligation" means my previous agreement to pay you money (referred to above by Loan Number and original date), and any related agreements such as a security agreement

By entering into this agreement, we are modifying one or more of the following terms or conditions of the original obligation:

Maturity Date: ☐ Yes ☒ No
Modification: _____

Payment Date: ☐ Yes ☒ No
Modification: _____

Interest Rate: ☐ Yes ☒ No
Modification: _____

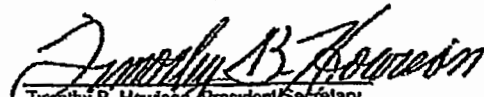
Amount/Credit Line: ☒ Yes ☐ No
Modification: Allow a one-time advance of \$25,000.00, making the current balance \$235,150.00.

Collateral/Security: ☐ Yes ☒ No
Modification: _____

Reason for Modification: Additional capital expenditures

This agreement does not, in any way, satisfy or cancel the original obligation. Except as specifically amended by this agreement, all other terms of the original obligation remain in effect. This means and includes, but is not limited to: (1) Property which secures the original obligation will continue to secure my total responsibility to pay you as amended by this agreement. (2) All parties who have a responsibility to pay you in any way this original obligation (including any co-makers, endorsers and guarantors) remain responsible for the total amount I owe you as amended by this agreement. If you require the consent to this extension by any additional party, I agree to obtain such consent, and this extension agreement will not be effective if the consent is not obtained. (3) Any post maturity interest rate provided for in the original obligation (except as specifically contracted for here) shall now begin to apply after the last scheduled payment of the original obligation as amended by this agreement. (4) You will not be responsible to further extend the payments affected by this agreement or any other scheduled payments. All other scheduled payments not affected by this agreement shall remain due as previously scheduled. (5) All provisions for default, remedies, attorneys' fees (if any) etc remain in effect. (6) My responsibility (if any) to provide insurance on the property which secures the original obligation (if any) shall remain in effect. However, the term of such insurance policy will not be extended to cover any additional term resulting from this agreement unless contracted for and any additional premium is paid. (7) The term for any Credit Life and/or Disability Insurance coverages purchased in connection with the original obligation will not be extended for the additional term provided for in this agreement unless contracted for and any additional premium paid. (8) This document, together with other written agreements of the parties, is the final expression of the agreement between the parties. This document may not be contradicted by evidence of prior or contemporaneous oral agreements of the parties.


Lender Representative Signature


Timothy B. Howison, President/Secretary

Central National Bank
Loan Modification Agreement

This agreement relates to Loan #. 6911 Originally Dated: 8/4/2006

Borrower(s): Howison Heights, Inc. This agreement dated: 9/30/2008

Timothy B. Howison Modification Fee: _____

Definitions As used in this agreement, the term "I" means the Borrower(s) named above, "You" means the Lender named above, "Original Obligation" means my previous agreement to pay you money (referred to above by Loan Number and original date), and any related agreements such as a security agreement

By entering into this agreement, we are modifying one or more of the following terms or conditions of the original obligation:

Maturity Date: ☒ Yes ☐ No

Modification: Extend the maturity date from 8/4/08 to 3/30/09.

Payment Date: ☒ Yes ☐ No

Modification: Extend the payment due date to 3/30/09.

Interest Rate: ☒ Yes ☐ No

Modification: Change to 8.93% fixed.

Amount/Credit Line: ☒ Yes ☐ No

Modification: Allow a one-time advance of \$39,850.00, making the current balance \$275,000.00.

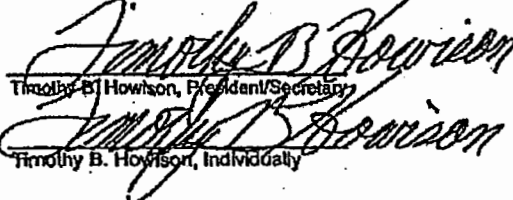
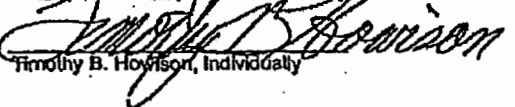
Collateral/Security: ☐ Yes ☒ No

Modification: _____

Reason for Modification: Renewal and increase.

This agreement does not, in any way, satisfy or cancel the original obligation. Except as specifically amended by this agreement, all other terms of the original obligation remain in effect. This means and includes, but is not limited to: (1) Property which secures the original obligation will continue to secure my total responsibility to pay you as amended by this agreement. (2) All parties who have a responsibility to pay you in any way the original obligation (including any co-makers, endorsers and guarantors) remain responsible for the total amount I owe you as amended by this agreement. If you require the consent to this extension by any additional party, I agree to obtain such consent, and this extension agreement will not be effective if the consent is not obtained. (3) Any post maturity interest rate provided for in the original obligation (except as specifically contracted for here) shall now begin to apply after the last scheduled payment of the original obligation as amended by this agreement. (4) You will not be responsible to further extend the payments affected by this agreement or any other scheduled payments. All other scheduled payments not affected by this agreement shall remain due as previously scheduled. (5) All provisions for default, remedies, attorneys' fees (if any) etc. remain in effect. (6) My responsibility (if any) to provide insurance on the property which secures the original obligation (if any) shall remain in effect. However, the term of such insurance policy will not be extended to cover any additional term resulting from this agreement unless contracted for and any additional premium is paid. (7) The term for any Credit Life and/or Disability Insurance coverages purchased in connection with the original obligation will not be extended for the additional term provided for in this agreement unless contracted for and any additional premium paid. (8) This document, together with other written agreements of the parties, is the final expression of the agreement between the parties. This document may not be contradicted by evidence of prior or contemporaneous oral agreements of the parties.


Lender Representative Signature


Timothy B. Howison, President/Secretary

Timothy B. Howison, Individually

Central National Bank
Loan Modification Agreement

This agreement relates to Loan #: 6811 Originally Dated: 8/4/2006

Borrower(s): Howison Heights, Inc. This agreement dated: 4/29/2009

Timothy B. Howison, As Pres./Sec., & Individual Modification Fee: _____

Definitions: As used in this agreement, the term "I" means the Borrower(s) named above; "You" means the Lender named above; "Original Obligation" means my previous agreement to pay you money (referred to above by Loan Number and original date), and any related agreements such as a security agreement.

By entering into this agreement, we are modifying one or more of the following terms or conditions of the original obligation:

Maturity Date: ☒ Yes ☐ No

Modification: Extend maturity date from 3/30/2009 to 4/29/2010.

Payment Date: ☒ Yes ☐ No

Modification: Change payment date to 4/29/2010.

Interest Rate: ☒ Yes ☐ No

Modification: Change interest rate to 7.15%.

Amount/Credit Line: ☐ Yes ☒ No

Modification: \$275,000.00.

Collateral/Security: ☐ Yes ☒ No

Modification: _____

Reason for Modification: Loan matured.

This agreement does not, in any way, satisfy or cancel the original obligation. Except as specifically amended by this agreement, all other terms of the original obligation remain in effect. This means and includes, but is not limited to: (1) Property which secures the original obligation will continue to secure my total responsibility to pay you as amended by this agreement. (2) All parties who have a responsibility to pay you in any way the original obligation (including any co-makers, endorsers and guarantors) remain responsible for the total amount I owe you as amended by this agreement. If you require the consent to this extension by any additional party, I agree to obtain such consent, and this extension agreement will not be effective if the consent is not obtained. (3) Any post maturity interest rate provided for in the original obligation (except as specifically contracted for here) shall now begin to apply after the last scheduled payment of the original obligation as amended by this agreement. (4) You will not be responsible to further extend the payments affected by this agreement or any other scheduled payments. All other scheduled payments not affected by this agreement shall remain due as previously scheduled. (5) All provisions for default, remedies, attorneys' fees (if any) etc. remain in effect. (6) My responsibility (if any) to provide insurance on the property which secures the original obligation (if any) shall remain in effect. However, the term of such insurance policy will not be extended to cover any additional term resulting from this agreement unless contracted for and any additional premium is paid. (7) The term for any Credit Life and/or Disability Insurance coverages purchased in connection with the original obligation will not be extended for the additional term provided for in this agreement unless contracted for and any additional premium paid. (8) This document, together with other written agreements of the parties, is the final expression of the agreement between the parties. This document may not be contradicted by evidence of prior or contemporaneous oral agreements of the parties.

Marty Kildner
Lender Representative Signature

Timothy B. Howison
Timothy B. Howison, President/Secretary
Timothy B. Howison
Timothy B. Howison, Individual

Central National Bank
Loan Modification Agreement

This agreement relates to Loan #: 6911 Originally Dated: 8/4/2006

Borrower(s): Howison Heights, Inc. This agreement dated: 7/19/2010

Timothy B. Howison Modification Fee: _____

Definitions. As used in this agreement, the term "I" means the Borrower(s) named above, "You" means the Lender named above; "Original Obligation" means my previous agreement to pay you money (referred to above by Loan Number and original date), and any related agreements such as a security agreement

By entering into this agreement, we are modifying one or more of the following terms or conditions of the original obligation:

Maturity Date: ☒ Yes ☐ No

Modification: Extend maturity date from 4/29/2010 to 12/15/2010.

Payment Date: ☒ Yes ☐ No

Modification: Change from Single Pay to interest only payments. Next interest payment will be 9/1/2010 and at Maturity date, 12/15/2010, interest and principal will be collected.

Interest Rate: ☒ Yes ☐ No

Modification: Change interest rate to 6.56%

Amount/Credit Line: ☐ Yes ☒ No

Modification: Balance remains at \$275,000.00.

Collateral/Security: ☒ Yes ☐ No

Modification: Add Real Estate Mortgage dated 7/19/2010 as additional collateral.

Reason for Modification: Renew working capital loan.

This agreement does not, in any way, satisfy or cancel the original obligation. Except as specifically amended by this agreement, all other terms of the original obligation remain in effect. This means and includes, but is not limited to: (1) Property which secures the original obligation will continue to secure any total responsibility to pay you as amended by this agreement. (2) All parties who have a responsibility to pay you in any way the original obligation (including any co-makers, endorsers and guarantors) remain responsible for the total amount I owe you as amended by this agreement. If you require the consent to this extension by any additional party, I agree to obtain such consent, and this extension agreement will not be effective if the consent is not obtained. (3) Any post maturity interest rate provided for in the original obligation (except as specifically contracted for here) shall now begin to apply after the last scheduled payment of the original obligation as amended by this agreement. (4) You will not be responsible to further extend the payments affected by this agreement or any other scheduled payments. All other scheduled payments not affected by this agreement shall remain due as previously scheduled. (5) All provisions for default, remedies, attorneys' fees (if any) etc remain in effect. (6) My responsibility (if any) to provide insurance on the property which secures the original obligation (if any) shall remain in effect. However, the term of such insurance policy will not be extended to cover any additional term resulting from this agreement unless contracted for and any additional premium is paid. (7) The term for any Credit Life and/or Disability Insurance coverages purchased in connection with the original obligation will not be extended for the additional term provided for in this agreement unless contracted for and any additional premium paid. (8) This document, together with other written agreements of the parties, is the final expression of the agreement between the parties. This document may not be contradicted by evidence of prior or contemporaneous oral agreements of the parties


Lender Representative Signature

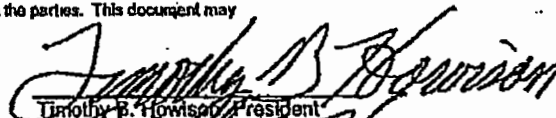
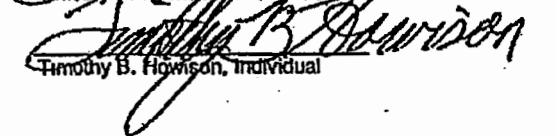

Timothy B. Howison, President

Timothy B. Howison, Individual

EXHIBIT C

THE C.W. LYNN ABSTRACT
COMPANY, INC.
121 N. 7th
Salina, Kansas 67401
File # S2004-545

HAAD14-2604911
(14) 8/4/06

REBECCA SEEMAN
REGISTER OF DEEDS
SALINE COUNTY KANSAS
Book: 1134 Pages: 1267
Receipt #: 35806 Total Fees: \$48.00
Mortgage #: 1953 Mortgage Amt: \$110,000.00
Pages Recorded: 11 Registration Tax: \$286.00
Date Recorded: 8/15/2006 2:58:57 PM

Return To: CENTRAL NATIONAL BANK
P.O. BOX 1029 JUNCTION CITY, KS 66441

Prepared By: CENTRAL NATIONAL BANK
454 S OHIO SALINA, KS 67401
State of Kansas

Space Above This Line For Recording Data

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is 08-04-2006
and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR:

HOWISON HEIGHTS, INC.
721 NEAL STREET
SALINA, KS 67401

- ☐ If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER:

CENTRAL NATIONAL BANK
ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA
454 S OHIO
SALINA, KS 67401

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys, mortgages and warrants to Lender the following described property:

SEE ATTACHED EXHIBIT "A"

TDA1211

DK:

10PTD 25

The property is located in SALINE

(County)

at RURAL SALINE COUNTYSALINA

(City)

Kansas 67401

(Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, all water and riparian rights, wells, ditches, reservoirs, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 110,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument. The limitation is for the purposes set forth in K.S.A. § 9-1101, § 58-2336 and § 79-3102.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:

- A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. *(When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)*

PROMISSORY NOTE # 6911 DATED 8/4/2008.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Security Instrument whether or not this Security Instrument is specifically referenced, or such future advances or future obligations are incurred for any purpose that was related or unrelated to the purpose of the Security Instrument. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.

- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.

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

This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.
6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, mortgage and warrant the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

(page 2 of 9)

- A. To make all payments when due and to perform or comply with all covenants.
 - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
 - C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.
8. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if:
- A. A beneficial interest in Mortgagor is sold or transferred.
 - B. There is a change in either the identity or number of members of a partnership or similar entity.
 - C. There is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity.
- However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.
11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall continue as long as the Secured Debt remains outstanding:
- A. Mortgagor is duly organized and validly existing in Mortgagor's state of incorporation or organization. Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
 - B. The execution, delivery and performance of this Security Instrument by Mortgagor and the obligations evidenced by the Secured Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
 - C. Other than previously disclosed in writing to Lender, Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.
12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

(page 3 of 9)

13. AUTHORITY TO PERFORM. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

14. ASSIGNMENT OF LEASES AND RENTS. Mortgagor assigns, grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in the following (Property).

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. DEFAULT. Mortgagor will be in default if any of the following occur:

- A. Any party obligated on the Secured Debt fails to make payment when due;
- B. A breach of any term or covenant in this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt;
- C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;

(page 4 of 9)

- D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any other person or entity obligated on the Secured Debt;
- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

17. REMEDIES ON DEFAULT. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all reasonable costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, collection agency fees or attorneys' fees, but not both, and other legal costs and expenses incurred by Lender in exercising any remedy under this Loan or under the law, for all persons other than salaried employees of Lender. This Security Instrument shall remain in effect until released.

19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste," "hazardous substance" or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the

(page 5 of 9)

Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

- E. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.
 - L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
20. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

21. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:

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

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

(page 6 of 9)

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

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

22. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
23. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.
25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
27. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all appraisal, homestead exemption, and redemption rights relating to the Property. However, the waiver of redemption is not applicable to that portion of the Property that covers agricultural land or a single or two-family dwelling owned by or held in trust for a natural person.
28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Security Instrument:
- ☐ **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
 - ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

(page 7 of 9)

- ☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
- ☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property, including all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property (all of which shall also be included in the term "Property"). The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
- ☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Security Instrument also suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.

29. OTHER TERMS. If checked, the following are applicable to this Security Instrument:

- ☐ **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
- ☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.
- ☐ **Purchase Money Mortgage.** The Secured Debt includes money which is used in whole or in part to purchase the Property.
- ☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- ☐ **Additional Terms.**

30. WAIVER OF JURY TRIAL. To the extent not prohibited by law, Mortgagor and Lender knowingly and intentionally waive the right, which the party may have, to a trial by jury with respect to any litigation arising from the Secured Debt, or any other agreement executed in conjunction with the Evidence of Debt and this Mortgage. Mortgagor and Lender each acknowledge that this section has either been brought to the attention of each party's legal counsel or that each party had the opportunity to do so.

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

Entity Name: HOWISON HEIGHTS, INC.

(Signature) *Timothy B. Howison* (Date) _____
 (Signature) _____ (Date) _____
 (Signature) _____ (Date) 8-4-06
 (Signature) _____ (Date) _____

ACKNOWLEDGMENT:

STATE OF _____, COUNTY OF _____ } ss.
 This instrument was acknowledged before me this _____ day of _____
 by _____
 My commission expires: _____

(Notary Public)

(Business
or Entity
Acknowledg-
ment)

STATE OF KANSAS, COUNTY OF Saline } ss.
 This instrument was acknowledged before me this 7TH day of AUGUST, 2008
 by TIMOTHY B. HOWISON, PRES. SEC.
 of HOWISON HEIGHTS, INC. (Title(s))
 a KANSAS (Name of Business or Entity)
 business or entity. on behalf of the
 My commission expires: _____

Jay D. Jensen
 (Notary Public)

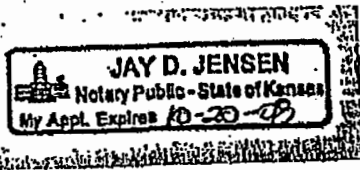


EXHIBIT "A"

A tract of land situated in the Southwest corner of the West Half of the Southwest Quarter ($W\frac{1}{2} SW\frac{1}{4}$) of Section Thirteen (13), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, which is more particularly described as follows:

Beginning at a point on the South line of said Southwest Quarter ($SW\frac{1}{4}$) and One Hundred Sixteen (116) feet East of the Southwest corner thereof, said point being on the East line of the Kansas State Highway tract; thence North along said East line, One Hundred Five (105) feet; thence East and parallel with said South line a distance of One Hundred Twelve (112) feet; thence South One Hundred Five (105) feet to said South line; thence West along said South line of said Southwest Quarter ($SW\frac{1}{4}$) a distance of One Hundred Twelve (112) feet to the point of beginning.

A tract of land located in the East Half ($E\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter ($SE\frac{1}{4}$) of said Section Twelve (12); thence $N00^{\circ}03'01''W$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet to the point of beginning; thence East and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Thirty (30.00) feet; thence North and parallel to the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Thirty (30.00) feet; thence $S00^{\circ}03'01''E$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #1

A tract of land located in the East Half ($E\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter ($SE\frac{1}{4}$) of Section Twelve (12); thence $N00^{\circ}03'01''W$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Two Thousand Four Hundred Twenty-four and Forty-five Hundredths (2424.45) feet; thence East parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence $S00^{\circ}03'01''E$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #2

A tract of land located in the East half ($E\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter ($SE\frac{1}{4}$) of said Section Twelve (12); thence $N00^{\circ}03'01''W$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence $S00^{\circ}03'01''E$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Standpipe Site

A tract of land located in the East Half (E½) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southeast corner of the Southeast Quarter (SE¼) of said Section Twelve (12); thence N00°01'30"E along the East line of said Southeast Quarter (SE¼) a distance of Two Thousand Three Hundred Twenty-seven and Seventy-eight Hundredths (2327.78) feet; thence N89°58'20"W a distance of Fifty (50.00) feet to the West Right-of-Way line of Ohio Street; thence N89°58'20"W a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence N00°01'18"E a distance of Fifty (50.00) feet; thence S89°58'20"E a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence S00°01'30"W a distance of Fifty (50.00) feet back to the point of beginning, containing an easement for turning purposes, said easement is described as follows:

Beginning at the Southeast corner of the above described tract; thence N89°58'20"W a distance of Three Hundred Thirty and One-hundredth (330.01) feet to the point of beginning; thence N89°58'20"W a distance of Fifty (50.00) feet; thence S00°01'18"W a distance of Fifty (50.00) feet; thence N45°00'00"E a distance of Seventy and Sixty-nine Hundredths (70.69) feet to the point of beginning.

A parcel of land in the Northeast Quarter of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter (NE¼); thence along the West line of said Northeast Quarter (NE¼) on a assumed bearing of S00°19'21"E, a distance of Two Hundred Thirty-three (233) feet; thence S89°59'07"E, a distance of Ninety-two (92) feet to the point of beginning of the parcel to be described; thence S89°59'07"E, a distance of Thirty (30) feet; thence S00°19'21"E, a distance of Thirty (30) feet; thence N89°59'07"W, a distance of Thirty (30) feet; thence N00°19'21"W, a distance of Thirty (30) feet to the point of beginning.

4800
286.22

EXHIBIT D

THE C.W. LYNN ABSTRACT
COMPANY, INC.
121 N. 7th
Salina, Kansas 67401
File# 52007-25

(49) 1/17/07

REBECCA SEGMAN
REGISTER OF DEEDS
SALINE COUNTY KANSAS
Book: 1143 Page: 1941
Receipt #: 38886
Mortgage #: 112
Pages Recorded: 11
Date Recorded: 1/18/2007 12:18:50 PM
Total Fees: \$48.00
Mortgage Amt: \$40,000.00
Registration Tax: \$184.00

Return To: CENTRAL NATIONAL BANK
PO BOX 1028 JUNCTION CITY, KS 66441
Prepared By: CENTRAL NATIONAL BANK
PO BOX 1028 JUNCTION CITY, KS 66441

State of Kansas _____ Space Above This Line For Recording Data _____

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. DATE AND PARTIES. The date of this Mortgage (Security Instrument) is 01-17-2007
_____ and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR:

HOWISON HEIGHTS, INC.
721 E NEAL AVE
SALINA, KS 67401-7727

- ☐ If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER:

CENTRAL NATIONAL BANK
ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA
454 S OHIO
SALINA, KS 67401

2. CONVEYANCE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys, mortgages and warrants to Lender the following described property:

SEE ATTACHED EXHIBIT "A".

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers; all water and riparian rights, wells, ditches, reservoirs, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

4. SECURED DEBT AND FUTURE ADVANCES. The term "Secured Debt" is defined as follows:

A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)

B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Security Instrument whether or not this Security Instrument is specifically referenced, or such future advances or future obligations are incurred for any purpose that was related or unrelated to the purpose of the Security Instrument. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.

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

6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, mortgage and warrant the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

(page 2 of 9)

- A. To make all payments when due and to perform or comply with all covenants.
- B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

8. CLAIMS AGAINST TITLE. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

9. DUE ON SALE OR ENCUMBRANCE. Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.

10. TRANSFER OF AN INTEREST IN THE MORTGAGOR. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if:

- A. A beneficial interest in Mortgagor is sold or transferred.
- B. There is a change in either the identity or number of members of a partnership or similar entity.
- C. There is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity.

However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.

11. ENTITY WARRANTIES AND REPRESENTATIONS. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall continue as long as the Secured Debt remains outstanding:

- A. Mortgagor is duly organized and validly existing in Mortgagor's state of incorporation or organization. Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Security Instrument by Mortgagor and the obligations evidenced by the Secured Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than previously disclosed in writing to Lender, Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

(page 3 of 9)

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor assigns, grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in the following (Property):

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).

B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. **DEFAULT.** Mortgagor will be in default if any of the following occur:

A. Any party obligated on the Secured Debt fails to make payment when due;

B. A breach of any term or covenant in this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt;

C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;

(page 4 of 9)

- D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any other person or entity obligated on the Secured Debt;
- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

- 17. REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

- 18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all reasonable costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, collection agency fees or attorneys' fees, but not both, and other legal costs and expenses incurred by Lender in exercising any remedy under this Loan or under the law, for all persons other than salaried employees of Lender. This Security Instrument shall remain in effect until released.

- 19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste," "hazardous substance" or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the

(page 5 of 9)

Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.

F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.

L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

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

21. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:

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

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

(page 6 of 9)

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

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
 - C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
22. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
23. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.
25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
27. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all appraisal, homestead exemption, and redemption rights relating to the Property. However, the waiver of redemption is not applicable to that portion of the Property that covers agricultural land or a single or two-family dwelling owned by or held in trust for a natural person.
28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Security Instrument:
- ☐ **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
 - ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

(page 7 of 9)

- ☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
- ☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property, including all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property (all of which shall also be included in the term "Property"). The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
- ☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Security Instrument also suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.

29. OTHER TERMS. If checked, the following are applicable to this Security Instrument.

- ☐ **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
- ☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.
- ☐ **Purchase Money Mortgage.** The Secured Debt includes money which is used in whole or in part to purchase the Property.
- ☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- ☐ **Additional Terms.**

30. WAIVER OF JURY TRIAL. To the extent not prohibited by law, Mortgagor and Lender knowingly and intentionally waive the right, which the party may have, to a trial by jury with respect to any litigation arising from the Secured Debt, or any other agreement executed in conjunction with the Evidence of Debt and this Mortgage. Mortgagor and Lender each acknowledge that this section has either been brought to the attention of each party's legal counsel or that each party had the opportunity to do so.

(page 8 of 9)

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

Entity Name: HOWISON HEIGHTS, INC.

(Signature) *Timothy B. Howison*
TIMOTHY B. HOWISON, PRESIDENT/SECRETARY

(Signature) _____ (Date) _____

(Signature) _____ (Date) _____

(Signature) _____ (Date) _____

ACKNOWLEDGMENT:

(Individual) STATE OF _____ COUNTY OF _____ } ss.
This instrument was acknowledged before me this _____ day of _____
by _____
My commission expires: _____

(Notary Public)

(Business
or Entity
Acknowledg-
ment)

STATE OF KANSAS COUNTY OF Saline } ss.

This instrument was acknowledged before me this 17TH day of JANUARY, 2007

by TIMOTHY B. HOWISON, PRESIDENT/SECRETARY

(Title(s))
of HOWISON HEIGHTS, INC. (Name of Business or Entity)
a KANSAS CORPORATION on behalf of the
business or entity.

My commission expires: 10/20/08

Jay D. Jensen
(Notary Public)

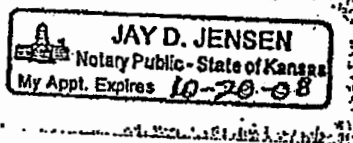


EXHIBIT "A"

A tract of land situated in the Southwest corner of the West Half of the Southwest Quarter ($W\frac{1}{2} SW\frac{1}{4}$) of Section Thirteen (13), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, which is more particularly described as follows:

Beginning at a point on the South line of said Southwest Quarter ($SW\frac{1}{4}$) and One Hundred Sixteen (116) feet East of the Southwest corner thereof, said point being on the East line of the Kansas State Highway tract; thence North along said East line, One Hundred Five (105) feet; thence East and parallel with said South line a distance of One Hundred Twelve (112) feet; thence South One Hundred Five (105) feet to said South line; thence West along said South line of said Southwest Quarter ($SW\frac{1}{4}$) a distance of One Hundred Twelve (112) feet to the point of beginning.

A tract of land located in the East Half ($E\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter ($SE\frac{1}{4}$) of said Section Twelve (12); thence $N00^{\circ}03'01''W$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet to the point of beginning; thence East and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Thirty (30.00) feet; thence North and parallel to the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Thirty (30.00) feet; thence $S00^{\circ}03'01''E$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #1

A tract of land located in the East Half ($E\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter ($SE\frac{1}{4}$) of Section Twelve (12); thence $N00^{\circ}03'01''W$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Two Thousand Four Hundred Twenty-four and Forty-five Hundredths (2424.45) feet; thence East parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence $S00^{\circ}03'01''E$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #2

A tract of land located in the East half ($E\frac{1}{2}$) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter ($SE\frac{1}{4}$) of said Section Twelve (12); thence $N00^{\circ}03'01''W$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of One Hundred (100.00) feet; thence $S00^{\circ}03'01''E$ along the West line of said Southeast Quarter ($SE\frac{1}{4}$) a distance of Sixty (60.00) feet back to the point of beginning.

Standpipe Site

A tract of land located in the East Half (E½) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southeast corner of the Southeast Quarter (SE¼) of said Section Twelve (12); thence N00°01'30"E along the East line of said Southeast Quarter (SE¼) a distance of Two Thousand Three Hundred Twenty-seven and Seventy-eight Hundredths (2327.78) feet; thence N89°58'20"W a distance of Fifty (50.00) feet to the West Right-of-Way line of Ohio Street; thence N89°58'20"W a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence N00°01'18"E a distance of Fifty (50.00) feet; thence S89°58'20"E a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence S00°01'30"W a distance of Fifty (50.00) feet back to the point of beginning, containing an easement for turning purposes, said easement is described as follows:

Beginning at the Southeast corner of the above described tract; thence N89°58'20"W a distance of Three Hundred Thirty and One-hundredth (330.01) feet to the point of beginning; thence N89°58'20"W a distance of Fifty (50.00) feet; thence S00°01'18"W a distance of Fifty (50.00) feet; thence N45°00'00"E a distance of Seventy and Sixty-nine Hundredths (70.69) feet to the point of beginning.

A parcel of land in the Northeast Quarter of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter (NE¼); thence along the West line of said Northeast Quarter (NE¼) on a assumed bearing of S00°19'21"E, a distance of Two Hundred Thirty-three (233) feet; thence S89°59'07"E, a distance of Ninety-two (92) feet to the point of beginning of the parcel to be described; thence S89°59'07"E, a distance of Thirty (30) feet; thence S00°19'21"E, a distance of Thirty (30) feet; thence N89°59'07"W, a distance of Thirty (30) feet; thence N00°19'21"W, a distance of Thirty (30) feet to the point of beginning.

48.00
104.00

EXHIBIT E

THL. CH. ABSTRACT

(49) 7/19/10

REBECCA SEEMAN

121 N. 7th

Salina, Kansas 67401

File# ~~52040~~ - 372

HAA 0144

24046911



REBECCA SEEMAN
REGISTER OF DEEDS SALINE COUNTY KANSAS

Book: 1216 Page: 732

Receipt #: 65620
Mortgage #: 1298
Pages Recorded: 12
Affidavit on file

Recording Fee: \$48.00
Mortgage Reg Tax: \$351.00
Mortgage Amount: \$135,000.00

Rebecca Seeman

Date Recorded: 8/24/2010 9:35:19 AM



Return To: CENTRAL NATIONAL BANK
PO BOX 1029 JUNCTION CITY, KS 66441
Prepared By: CENTRAL NATIONAL BANK
PO BOX 1029 JUNCTION CITY, KS 66441
State of Kansas

Space Above This Line For Recording Data

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is 07-19-2010
and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR:

HOWISON HEIGHTS, INC., TIMOTHY B. HOWISON, TRUSTEE OF THE TIMOTHY AND MELINDA HOWISON TRUST,
TIMOTHY B. HOWISON
1212 MEYER DR
SALINA, KS 67401-5274

- ☐ If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER:

Central National Bank
Organized and existing under the laws of the United States of America
PO Box 129
600 Maple Gypsum, KS 67448

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys, mortgages and warrants to Lender the following described property:

See attached Schedule C

KANSAS - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT
(NOT FOR FNMA, FHLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES)

Exempt © 1993, 2001 Bankers Systems, Inc., St. Cloud, MN Form AGCO RESI-KS 11/25/2003

(page 1 of 9)

The property is located in Saline County at Multiple Tracts
 (County)
 _____, Kansas
 (Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, all water and riparian rights, wells, ditches, reservoirs, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 275,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument. The limitation is for the purposes set forth in K S A § 9-1101, § 58-2336 and § 79-3102.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:
 A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions *(When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)*

PROMISSORY NOTE # ~~1000~~ 6911 DATED 8/4/2006

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Security Instrument whether or not this Security Instrument is specifically referenced, or such future advances or future obligations are incurred for any purpose that was related or unrelated to the purpose of the Security Instrument. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.
6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, mortgage and warrant the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

(page 2 of 9)

- A. To make all payments when due and to perform or comply with all covenants.
 - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
 - C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.
8. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if:
- A. A beneficial interest in Mortgagor is sold or transferred.
 - B. There is a change in either the identity or number of members of a partnership or similar entity.
 - C. There is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity.
- However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.
11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall continue as long as the Secured Debt remains outstanding:
- A. Mortgagor is duly organized and validly existing in Mortgagor's state of incorporation or organization. Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
 - B. The execution, delivery and performance of this Security Instrument by Mortgagor and the obligations evidenced by the Secured Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
 - C. Other than previously disclosed in writing to Lender, Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.
12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

(page 3 of 9)

13. AUTHORITY TO PERFORM. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

14. ASSIGNMENT OF LEASES AND RENTS. Mortgagor assigns, grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in the following (Property):

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases)
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. DEFAULT. Mortgagor will be in default if any of the following occur:

- A. Any party obligated on the Secured Debt fails to make payment when due;
- B. A breach of any term or covenant in this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt;
- C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;

(page 4 of 9)

- D. The death, dissolution, or insolvency of; appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any other person or entity obligated on the Secured Debt;
- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

17. REMEDIES ON DEFAULT. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all reasonable costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, collection agency fees or attorneys' fees, but not both, and other legal costs and expenses incurred by Lender in exercising any remedy under this Loan or under the law, for all persons other than salaried employees of Lender. This Security Instrument shall remain in effect until released.

19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste," "hazardous substance" or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the

(page 5 of 9)

- Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
- E. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.
 - L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
20. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
21. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debt. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.
- All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

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

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
 - C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
22. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
23. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.
25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
27. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all appraisal, homestead exemption, and redemption rights relating to the Property. However, the waiver of redemption is not applicable to that portion of the Property that covers agricultural land or a single or two-family dwelling owned by or held in trust for a natural person.
28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Security Instrument:
- ☐ **Construction-Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
 - ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

(page 7 of 9)

- ☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
- ☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property, including all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property (all of which shall also be included in the term "Property"). The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
- ☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Security Instrument also suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.


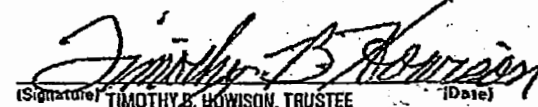
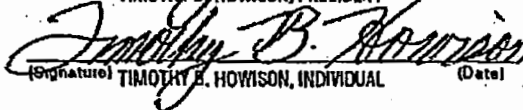
29. OTHER TERMS. If checked, the following are applicable to this Security Instrument:

- ☐ **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
- ☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.
- ☐ **Purchase Money Mortgage.** The Secured Debt includes money which is used in whole or in part to purchase the Property.
- ☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- ☐ **Additional Terms.**

30. WAIVER OF JURY TRIAL. To the extent not prohibited by law, Mortgagor and Lender knowingly and intentionally waive the right, which the party may have, to a trial by jury with respect to any litigation arising from the Secured Debt, or any other agreement executed in conjunction with the Evidence of Debt and this Mortgage. Mortgagor and Lender each acknowledge that this section has either been brought to the attention of each party's legal counsel or that each party had the opportunity to do so.

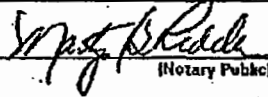
SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

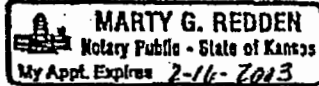
Entity Name HOWISON HEIGHTS, INC., TIMOTHY B. HOWISON, TRUSTEE OF THE TIMOTHY AND MELINDA HOWISON TRUST, TIMOTHY B. HOWISON


 (Signature) TIMOTHY B. HOWISON, PRESIDENT (Date) _____

 (Signature) TIMOTHY B. HOWISON, TRUSTEE (Date) _____

 (Signature) TIMOTHY B. HOWISON, INDIVIDUAL (Date) _____
 (Signature) _____ (Date) _____

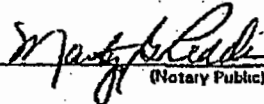
ACKNOWLEDGMENT:

STATE OF KANSAS, COUNTY OF SALINE) ss.
 (Individual) This instrument was acknowledged before me this 19th day of July, 2010
 by Timothy B. Howison
 My commission expires: _____


 (Notary Public)



STATE OF Kansas, COUNTY OF SALINE) ss.
 (Business or Entry Acknowledgment) This instrument was acknowledged before me this 19th day of July, 2010
 by TIMOTHY B. HOWISON, PRESIDENT; TIMOTHY B. HOWISON, TRUSTEE, TIMOTHY B. HOWISON, INDIVIDUAL
 (Title(s))
 of HOWISON HEIGHTS, INC., TIMOTHY B. HOWISON, TRUSTEE OF THE TIMOTHY AND MELINDA HOWISON TRUST, TIMOTHY B. HOWISON
 a Kansas Corporation on behalf of the
 business or entry.
 My commission expires: _____


 (Notary Public)



SCHEDULE C

PROPERTY DESCRIPTION

The land referred to in this Commitment is described as follows:

- ✓ A tract of land situated in the Southwest corner of the West Half of the Southwest Quarter (W½ SW¼) of Section Thirteen (13), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, which is more particularly described as follows:

Beginning at a point on the South line of said Southwest Quarter (SW¼) and One Hundred Sixteen (116) feet East of the Southwest corner thereof, said point being on the East line of the Kansas State Highway tract; thence North along said East line, One Hundred Five (105) feet; thence East and parallel with said South line a distance of One Hundred Twelve (112) feet; thence South One Hundred Five (105) feet to said South line; thence West along said South line of said Southwest Quarter (SW¼) a distance of One Hundred Twelve (112) feet to the point of beginning.

- ✓ A tract of land located in the East Half (E½) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter (SE¼) of said Section Twelve (12); thence N00°03'01"W along the West line of said Southeast Quarter (SE¼) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East and parallel to the South line of said Southeast Quarter (SE¼) a distance of One Hundred (100.00) feet to the point of beginning.; thence East and parallel to the South line of said Southeast Quarter (SE¼) a distance of Thirty (30.00) feet; thence North and parallel to the West line of said Southeast Quarter (SE¼) a distance of Sixty (60.00) feet, thence West and parallel to the South line of said Southeast Quarter (SE¼) a distance of Thirty (30.00) feet; thence S00°03'01"E along the West line of said Southeast Quarter (SE¼) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #1

- ✓ A tract of land located in the East Half (E½) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter (SE¼) of Section Twelve (12); thence N00°03'01"W along the West line of said Southeast Quarter (SE¼) a distance of Two Thousand Four Hundred Twenty-four and Forty-five Hundredths (2424.45) feet; thence East parallel to the South line of said Southeast Quarter (SE¼) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter (SE¼) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter (SE¼) a distance of One Hundred (100.00) feet; thence S00°03'01"E along the West line of said Southeast Quarter (SE¼) a distance of Sixty (60.00) feet back to the point of beginning.

Well Site #2

- ✓ A tract of land located in the East half (E½) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter (SE¼) of said Section Twelve (12); thence N00°03'01"W along the West line of said Southeast Quarter (SE¼) a distance of One Thousand Eight Hundred Sixteen and Twenty-nine Hundredths (1816.29) feet; thence East parallel to the South line of said Southeast Quarter (SE¼) a distance of One Hundred (100.00) feet; thence North parallel to the West line of said Southeast Quarter (SE¼) a distance of Sixty (60.00) feet; thence West and parallel to the South line of said Southeast Quarter (SE¼) a distance of One Hundred (100.00) feet; thence S00°03'01"E along the West line of said Southeast Quarter (SE¼) a distance of Sixty (60.00) feet back to the point of beginning.

Standpipe Site

- ✓ A tract of land located in the East Half (E½) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Southeast corner of the Southeast Quarter (SE¼) of said Section Twelve (12); thence N00°01'30"E along the East line of said Southeast Quarter (SE¼) a distance of Two Thousand Three Hundred Twenty-seven and Seventy-eight Hundredths (2327.78) feet; thence N89°58'20"W a distance of Fifty (50.00) feet to the West Right-of-Way line of Ohio Street; thence N89°58'20"W a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence N00°01'18"E a distance of Fifty (50.00) feet; thence S89°58'20"E a distance of Three Hundred Eighty and One-hundredth (380.01) feet; thence S00°01'30"W a distance of Fifty (50.00) feet back to the point of beginning, containing an easement for turning purposes, said easement is described as follows:

- ✓ Beginning at the Southeast corner of the above described tract; thence N89°58'20"W a distance of Three Hundred Thirty and One-hundredth (330.01) feet to the point of beginning; thence N89°58'20"W a distance of Fifty (50.00) feet; thence S00°01'18"W a distance of Fifty (50.00) feet; thence N45°00'00"E a distance of Seventy and Sixty-nine Hundredths (70.69) feet to the point of beginning.

- ✓ A parcel of land in the Northeast Quarter (NE¼) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter (NE¼); thence along the West line of said Northeast Quarter (NE¼) on a assumed bearing of S00°19'21"E a distance of Two Hundred Thirty-three (233) feet; thence S89°59'07"E a distance of Ninety-two (92) feet to the point of beginning of the parcel to be described; thence S89°59'07"E a distance of Thirty (30) feet; thence S00°19'21"E a distance of Thirty (30) feet; thence N89°59'07"W a distance of Thirty (30) feet; thence N00°19'21"W a distance of Thirty (30) feet to the point of beginning.

- ✓ A parcel of land located in the Northeast Quarter (NE¼) of Section Twelve (12), Township Thirteen (13) South, Range Three (3) West of the 6th P.M., in Saline County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter (NE¼); thence on an assumed bearing of S00°19'21"E along the West line of said Northeast Quarter (NE¼) a distance of 662.86 feet; thence N90°00'00"E a distance of 24.00 feet to the point of beginning of the parcel to be described; thence continuing N90°00'00"E a distance of 30.00 feet; thence S00°00'00"E a distance of 30.00 feet; thence N90°00'00"W a distance of 30.00 feet, thence N00°00'00"E a distance of 30.00 feet to the point of beginning.

480
351

AFFIDAVIT

STATE OF KANSAS)
) ss:
COUNTY OF SALINE)

Marty G. Redden of Central National Bank, being first duly sworn, deposes and says:

That, Howison Heights, Inc., executed two Mortgages to Central National Bank, one dated 08/04/2006 in the amount of \$100,000.00 recorded with the Register of Deeds of Saline County, Kansas, in Book 1134, Page 1267, and one dated 01/17/2007 in the amount of \$40,000.00 recorded with the Register of Deeds of Saline County, Kansas, in Book 1134, Page 1941 covering the following described real estate:

1143

See attached Exhibit "A"

That the aforesaid Howison Heights, Inc. have executed a new Mortgage to Central National Bank in the amount of \$275,000.00, dated 07/19/2010 and covering the above described real estate.

That of the \$275,000.00 consideration stated in the new Mortgage, \$100,000.00 was included as principal indebtedness under the original Mortgage recorded in Book 1134, Page 1267 and \$40,000.00 was included as principal indebtedness under the original Mortgage recorded in Book 1134, Page 1941.

1143

That an additional \$135,000.00 was advanced to the debtors and therefore, under the provision of K.S.A. 79-3102 (3) the mortgage registration fee for the new Mortgage should be paid on an amount of \$135,000.00.

Further affiant says not.

Signed this 19th Day of July, 2010.

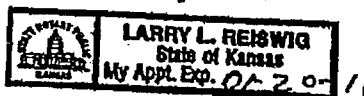
Marty G. Redden
Marty G. Redden

Sworn to before me this 19th day of July, 2010.

Larry L. Reiswig
Notary Public

My commission expires:

01-20-2011



NC

EXHIBIT F

53 8/4/06

DEBTOR NAME AND ADDRESS	SECURED PARTY NAME AND ADDRESS
HOWISON HEIGHTS INC AND TIMOTHY B. HOWISON, AS PRES. SEC. & INDIVIDUAL 721 NEAL STREET SALINA, KS 67401	CENTRAL NATIONAL BANK 454 S OHIO SALINA, KS 67401
Type: <input type="checkbox"/> individual <input type="checkbox"/> partnership <input checked="" type="checkbox"/> corporation <input type="checkbox"/> _____ State of organization/registration (if applicable) <u>KS</u> <input type="checkbox"/> If checked, refer to addendum for additional Debtors and signatures.	

COMMERCIAL SECURITY AGREEMENT

The date of this Commercial Security Agreement (Agreement) is 08/04/2006.

SECURED DEBTS. This Agreement will secure all sums advanced by Secured Party under the terms of this Agreement and the payment and performance of the following described Secured Debts that (check one) ☒ Debtor ☐ _____ (Borrower) owes to Secured Party:

☐ Specific Debts. The following debts and all extensions, renewals, refinancings, modifications, and replacements (describe):

☒ All Debts. All present and future debts, even if this Agreement is not referenced, the debts are also secured by other collateral, or the future debt is unrelated to or of a different type than the current debt. Nothing in this Agreement is a commitment to make future loans or advances.

SECURITY INTEREST. To secure the payment and performance of the Secured Debts, Debtor gives Secured Party a security interest in all of the Property described in this Agreement that Debtor owns or has sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products of the Property. "Property" includes all parts, accessories, repairs, replacements, improvements, and accessions to the Property; any original evidence of title or ownership; and all obligations that support the payment or performance of the Property. "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property. This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and Secured Party is no longer obligated to advance funds to Debtor or Borrower.

PROPERTY DESCRIPTION. The Property is described as follows:

- ☒ Accounts and Other Rights to Payment: All rights to payment, whether or not earned by performance, including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned. This includes any rights and interests (including all liens) which Debtor may have by law or agreement against any account debtor or obligor of Debtor.
- ☒ Inventory: All inventory held for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in Debtor's business.
- ☒ Equipment: All equipment including, but not limited to, machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and record keeping equipment, parts, and tools. The Property includes any equipment described in a list or schedule Debtor gives to Secured Party, but such a list is not necessary to create a valid security interest in all of Debtor's equipment.
- ☒ Instruments and Chattel Paper: All instruments, including negotiable instruments and promissory notes and any other writings or records that evidence the right to payment of a monetary obligation, and tangible and electronic chattel paper.
- ☒ General Intangibles: All general intangibles including, but not limited to, tax refunds, patents and applications for patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use Debtor's name.
- ☒ Documents: All documents of title including, but not limited to, bills of lading, dock warrants and receipts, and warehouse receipts.
- ☒ Farm Products and Supplies: All farm products including, but not limited to, all poultry and livestock and their young, along with their produce, products, and replacements; all crops, annual or perennial, and all products of the crops; and all feed, seed, fertilizer, medicines, and other supplies used or produced in Debtor's farming operations.
- ☒ Government Payments and Programs: All payments, accounts, general intangibles, and benefits including, but not limited to, payments to kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance and diversion payments, production flexibility contracts, and conservation reserve payments under any preexisting, current, or future federal or state government program.
- ☒ Investment Property: All investment property including, but not limited to, certificated securities, uncertificated securities, securities entitlements, securities accounts, commodity contracts, commodity accounts, and financial assets.
- ☒ Deposit Accounts: All deposit accounts including, but not limited to, demand, time, savings, passbook, and similar accounts.
- ☒ Specific Property Description: The Property includes, but is not limited by, the following (if required, provide real estate description):

REAL ESTATE MORTGAGE DATED 8/4/2006 COVERING LAND IN SALINE, SALINE COUNTY, KANSAS 67401. FURNITURE, FURNISHINGS, FIXTURES, INVENTORY, DOCUMENTS, INSTRUMENTS (INCLUDING PROMISSORY NOTES), ACCOUNTS (INCLUDING HEALTH CARE INSURANCE RECEIVABLES), GENERAL INTANGIBLES (INCLUDING PAYMENT INTANGIBLES), CHATTEL PAPER, ACCOUNTS RECEIVABLE, SUPPLIER, STOCK IN TRADE, CONTRACT RIGHTS, RENTS AND REVENUE, RIGHTS TO PAYMENT, MACHINERY, EQUIPMENT, VEHICLES, TOOLS, LEASES, APPLIANCES, INVESTMENT PROPERTY, DEPOSIT ACCOUNTS, LETTER-OF-CREDIT RIGHTS, SUPPORTING OBLIGATIONS, AND OTHER PERSONAL PROPERTY NOW OWNED OR HEREAFTER ACQUIRED BY BORROWER(S), AND ANY AND ALL PROCEEDS, PRODUCTS, INCREASES, ADDITIONS, ACCESSIONS, SUBSTITUTIONS AND REPLACEMENTS, IN, ON, THERE TO AND THEREFROM: ALL RECORDS OF ANY KIND RELATING TO ANY OF THE FOREGOING: AND ALL PROCEEDS RELATING TO ANY OF THE FOREGOING (INCLUDING INSURANCE, GENERAL INTANGIBLES, AND ACCOUNTS PROCEEDS).

USE OF PROPERTY. The Property will be used for ☐ personal ☒ business ☐ agricultural ☐ _____ purposes.

SIGNATURES. Debtor agrees to the terms on pages 1 and 2 of this Agreement and acknowledges receipt of a copy of this Agreement.

DEBTOR

SECURED PARTY

HOWISON HEIGHTS INC

TIMOTHY B. HOWISON, AS PRES. SEC. & INDIVIDUAL

CENTRAL NATIONAL BANK

JAY D. JENSEN
COMMERCIAL LENDER

GENERAL PROVISIONS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. Secured Party may sue each Debtor individually or together with any other Debtor. Secured Party may release any part of the Property and Debtor will remain obligated under this Agreement. The duties and benefits of this Agreement will bind the successors and assigns of Debtor and Secured Party. No modification of this Agreement is effective unless made in writing and signed by Debtor and Secured Party. Whenever used, the plural includes the singular and the singular includes the plural. Time is of the essence.

APPLICABLE LAW. This Agreement is governed by the laws of the state in which Secured Party is located. In the event of a dispute, the exclusive forum, venue, and place of jurisdiction will be the state in which Secured Party is located, unless otherwise required by law. If any provision of this Agreement is unenforceable by law, the unenforceable provision will be severed and the remaining provisions will still be enforceable.

NAME AND LOCATION. Debtor's name indicated on page 1 is Debtor's exact legal name. If Debtor is an individual, Debtor's address is Debtor's principal residence. If Debtor is not an individual, Debtor's address is the location of Debtor's chief executive offices or sole place of business. If Debtor is an entity organized and registered under state law, Debtor has provided Debtor's state of registration on page 1. Debtor will provide verification of registration and location upon Secured Party's request. Debtor will provide Secured Party with at least 30 days notice prior to any change in Debtor's name, address, or state of organization or registration.

WARRANTIES AND REPRESENTATIONS. Debtor has the right, authority, and power to enter into this Agreement. The execution and delivery of this Agreement will not violate any agreement governing Debtor or Debtor's property, or to which Debtor is a party. Debtor makes the following warranties and representations which continue as long as this Agreement is in effect:

- (1) Debtor is duly organized and validly existing in all jurisdictions in which Debtor does business;
- (2) the execution and performance of the terms of this Agreement have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law or order;
- (3) other than previously disclosed to Secured Party, Debtor has not changed Debtor's name or principal place of business within the last 10 years and has not used any other trade or fictitious name; and
- (4) Debtor does not and will not use any other name without Secured Party's prior written consent.

Debtor owns all of the Property, and Secured Party's claim to the Property is ahead of the claims of any other creditor, except as otherwise agreed and disclosed to Secured Party prior to any advance on the Secured Debts. The Property has not been used for any purpose that would violate any laws or subject the Property to forfeiture or seizure.

DUTIES TOWARD PROPERTY. Debtor will protect the Property and Secured Party's interest against any competing claim. Except as otherwise agreed, Debtor will keep the Property in Debtor's possession at the address indicated on page 1 of this Agreement. Debtor will keep the Property in good repair and use the Property only for purposes specified on page 1. Debtor will not use the Property in violation of any law and will pay all taxes and assessments levied or assessed against the Property. Secured Party has the right of reasonable access to inspect the Property, including the right to require Debtor to assemble and make the Property available to Secured Party. Debtor will immediately notify Secured Party of any loss or damage to the Property. Debtor will prepare and keep books, records, and accounts about the Property and Debtor's business, to which Debtor will allow Secured Party reasonable access.

Debtor will not sell, offer to sell, license, lease, or otherwise transfer or encumber the Property without Secured Party's prior written consent. Any disposition of the Property will violate Secured Party's rights, unless the Property is inventory sold in the ordinary course of business at fair market value. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, Debtor will record Secured Party's interest on the face of the chattel paper or instruments.

If the Property includes accounts, Debtor will not settle any account for less than the full value, dispose of the accounts by assignment, or make any material change in the terms of any account without Secured Party's prior written consent. Debtor will collect all accounts in the ordinary course of business, unless otherwise required by Secured Party. Debtor will keep the proceeds of the accounts, and any goods returned to Debtor, in trust for Secured Party and will not commingle the proceeds or returned goods with any of Debtor's other property. Secured Party has the right to require Debtor to pay Secured Party the full price on any returned items. Secured Party may require account debtors to make payments under the accounts directly to Secured Party. Debtor will deliver the accounts to Secured Party at Secured Party's request. Debtor will give Secured Party all statements, reports, certificates, lists of account debtors (showing names, addresses, and amounts owing), invoices applicable to each account, and any other data pertaining to the accounts as Secured Party requests.

If the Property includes farm products, Debtor will provide Secured Party with a list of the buyers, commission merchants, and selling agents to or through whom Debtor may sell the farm products. Debtor authorizes Secured Party to notify any additional parties regarding Secured Party's interest in Debtor's farm products, unless prohibited by law. Debtor agrees to plant, cultivate, and harvest crops in due season. Debtor will be in default if any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetland to produce or to make possible the production of an agricultural commodity, further explained in 7 CFR Part 1940, Subpart G, Exhibit M. If Debtor pledges the Property to Secured Party (delivers the Property into the possession or control of Secured Party or a designated third party), Debtor will, upon receipt, deliver any proceeds and products of the Property to Secured Party. Debtor will provide Secured Party with any notices, documents, financial statements, reports, and other information relating to the Property Debtor receives as the owner of the Property.

PERFECTION OF SECURITY INTEREST. Debtor authorizes Secured Party to file a financing statement covering the Property. Debtor will comply with, facilitate, and otherwise assist Secured Party in connection with obtaining possession or control over the Property for purposes of perfecting Secured Party's interest under the Uniform Commercial Code.

INSURANCE. Debtor agrees to keep the Property insured against the risks reasonably associated with the Property until the Property is released from this Agreement. Debtor will maintain this insurance in the amounts Secured Party requires. Debtor may choose the insurance company, subject to Secured Party's approval, which will not be unreasonably withheld. Debtor will have the insurance provider name Secured Party as loss payee on the insurance policy. Debtor will give Secured Party and the insurance provider immediate notice of any loss. Secured Party may apply the insurance proceeds toward the Secured Debts. Secured Party may require additional security as a condition of permitting any insurance proceeds to be used to repair or replace the Property. If Secured Party acquires the Property in damaged condition, Debtor's rights to any insurance policies and proceeds will pass to Secured Party to the extent of the Secured Debts. Debtor will immediately notify Secured Party of the cancellation or termination of insurance. If Debtor fails to keep the Property insured, or fails to provide Secured Party with proof of insurance, Secured Party may obtain insurance to protect Secured Party's interest in the Property. The insurance may include coverages not originally required of Debtor, may be written by a company other than one Debtor would choose, and may be written at a higher rate than Debtor could obtain if Debtor purchased the insurance.

AUTHORITY TO PERFORM. Debtor authorizes Secured Party to do anything Secured Party deems reasonably necessary to protect the Property and Secured Party's interest in the Property. If Debtor fails to perform any of Debtor's duties under this Agreement, Secured Party is authorized, without notice to Debtor, to perform the duties or cause them to be performed. These authorizations include, but are not limited to, permission to pay for the repair, maintenance, and preservation of the Property and take any action to realize the value of the Property. Secured Party's authority to perform for Debtor does not create an obligation to perform, and Secured Party's failure to perform will not preclude Secured Party from exercising any other rights under the law or this Agreement. If Secured Party performs for Debtor, Secured Party will use reasonable care. Reasonable care will not include any steps necessary to preserve rights against prior parties or any duty to take action in connection with the management of the Property.

If Secured Party comes into possession of the Property, Secured Party will preserve and protect the Property to the extent required by law. Secured Party's duty of care with respect to the Property will be satisfied if Secured Party exercises reasonable care in the safekeeping of the Property or in the selection of a third party in possession of the Property.

Secured Party may enforce the obligations of an account debtor or other person obligated on the Property. Secured Party may exercise Debtor's rights with respect to the account debtor's or other person's obligations to make payment or otherwise render performance to Debtor, and enforce any security interest that secures such obligations.

PURCHASE MONEY SECURITY INTEREST. If the Property includes items purchased with the Secured Debts, the Property purchased with the Secured Debts will remain subject to Secured Party's security interest until the Secured Debts are paid in full. Payments on any non-purchase money loan also secured by this Agreement will not be applied to the purchase money loan. Payments on the purchase money loan will be applied first to the non-purchase money portion of the loan, if any, and then to the purchase money portion in the order in which the purchase money Property was acquired. If the purchase money Property was acquired at the same time, payments will be applied in the order Secured Party selects. No security interest will be terminated by application of this formula.

DEFAULT. Debtor will be in default if:

- (1) Debtor (or Borrower, if not the same) fails to make a payment in full when due;
- (2) Debtor fails to perform any condition or keep any covenant on this or any debt or agreement Debtor has with Secured Party;
- (3) a default occurs under the terms of any instrument or agreement evidencing or pertaining to the Secured Debts;
- (4) anything else happens that either causes Secured Party to reasonably believe that Secured Party will have difficulty in collecting the Secured Debts or significantly impairs the value of the Property.

REMEDIES. After Debtor defaults, and after Secured Party gives any legally required notice and opportunity to cure the default, Secured Party may at Secured Party's option do any one or more of the following:

- (1) make all or any part of the Secured Debts immediately due and accrue interest at the highest post-maturity interest rate;
- (2) require Debtor to gather the Property and make it available to Secured Party in a reasonable fashion;
- (3) enter upon Debtor's premises and take possession of all or any part of Debtor's property for purposes of preserving the Property or its value and use and operate Debtor's property to protect Secured Party's interests, all without payment or compensation to Debtor;
- (4) use any remedy allowed by state or federal law, or provided in any agreement evidencing or pertaining to the Secured Debts.

If Secured Party repossesses the Property or enforces the obligations of an account debtor, Secured Party may keep or dispose of the Property as provided by law. Secured Party will apply the proceeds of any collection or disposition first to Secured Party's expenses of enforcement, which includes reasonable attorney's fees and legal expenses to the extent not prohibited by law, and then to the Secured Debts. Debtor (or Borrower, if not the same) will be liable for the deficiency, if any.

By choosing any one or more of these remedies, Secured Party does not give up the right to use any other remedy. Secured Party does not waive a default by not using a remedy.

WAIVER. Debtor waives all claims for damages caused by Secured Party's acts or omissions where Secured Party acts in good faith.

NOTICE AND ADDITIONAL DOCUMENTS. Where notice is required, Debtor agrees that 10 days prior written notice will be reasonable notice to Debtor under the Uniform Commercial Code. Notice to one party is notice to all parties. Debtor agrees to sign, deliver, and file any additional documents and certifications Secured Party considers necessary to perfect, continue, or preserve Debtor's obligations under this Agreement and to confirm Secured Party's lien status on the Property.

EXHIBIT G



**Kansas Secretary of State
Online UCC Filing System
Acknowledgment of Filing**

HAA 0144
[REDACTED] 6911
UCC# 94705044
Blanket

Time of Transaction: 08-11-2006 08:25:28 AM
Filing Type: Financing Statement
Filing Number: 94705044

Debtor Information
HOWISON HEIGHTS, INC. 721 E NEAL AVE SALINA, KS 674017727 Organization ID: KS0855007 Organization Type: DOM: FOR PROFIT CORPORATION Organization Jurisdiction: Kansas
Howison, Timothy B 721 E Neal Ave Salina, KS 67401
Secured Party Information
Central National Bank P.O. Box 1029 Junction City, KS 66441
Collateral Information
Furniture, furnishings, fixtures, inventory, documents, instruments (including promissory notes), accounts (including health-care-insurance receivables), general intangibles (including payment intangibles), chattel paper, accounts receivable, supplies, stock in trade, contract rights, rents and revenue, rights to payment, machinery, equipment, vehicles, tools, leases, appliances, investment property, deposit accounts, letter-of-credit rights, supporting obligations, and other personal property now owned or hereafter acquired by borrower(s), and any and all proceeds, products, increases, additions, accessions, substitutions and replacements, in, on, thereto and therefrom: all records of any kind relating to any of the foregoing: and all proceeds relating to any of the foregoing (including insurance, general intangibles, and accounts proceeds).

Ron Thornburgh
Secretary of State

[Back to Filing](#)

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)**B. SEND ACKNOWLEDGMENT TO: (Name and Address)**

CENTRAL NATIONAL BANK
P.O. BOX 1029
JUNCTION CITY, KS 66441

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**

OR

1b. INDIVIDUAL'S LAST NAME

INC

FIRST NAME

HOWISON

MIDDLE NAME

HEIGHTS

SUFFIX**1c. MAILING ADDRESS**

721 NEAL STREET

CITY

SALINA

STATE

KS

POSTAL CODE

67401

COUNTRY**1d. TAX ID #: SSN OR EIN**ADD'L INFO RE
ORGANIZATION
DEBTOR**1e. TYPE OF ORGANIZATION****1f. JURISDICTION OF ORGANIZATION****1g. ORGANIZATIONAL ID #, if any**☐ NONE**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

HOWISON, J

FIRST NAME

TIMOTHY

MIDDLE NAME

B

SUFFIX**2c. MAILING ADDRESS**

721 E NEAL AVE

CITY

SALINA

STATE

KS

POSTAL CODE

67401-7727

COUNTRY**2d. TAX ID #: SSN OR EIN**ADD'L INFO RE
ORGANIZATION
DEBTOR**2e. TYPE OF ORGANIZATION****2f. JURISDICTION OF ORGANIZATION****2g. ORGANIZATIONAL ID #, if any**☐ NONE**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)****3a. ORGANIZATION'S NAME**

OR

CENTRAL NATIONAL BANK

3b. INDIVIDUAL'S LAST NAME**FIRST NAME****MIDDLE NAME****SUFFIX****3c. MAILING ADDRESS**

454 S OHIO

CITY

SALINA

STATE

KS

POSTAL CODE

67401

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

FURNITURE, FURNISHINGS, FIXTURES, INVENTORY, DOCUMENTS, INSTRUMENTS (INCLUDING PROMISSORY NOTES), ACCOUNTS (INCLUDING HEALTH-CARE-INSURANCE RECEIVABLES), GENERAL INTANGIBLES (INCLUDING PAYMENT INTANGIBLES), CHATTEL PAPER, ACCOUNTS RECEIVABLE, SUPPLIES, STOCK IN TRADE, CONTRACT RIGHTS, RENTS AND REVENUE, RIGHTS TO PAYMENT, MACHINERY, EQUIPMENT, VEHICLES, TOOLS, LEASES, APPLIANCES, INVESTMENT PROPERTY, DEPOSIT ACCOUNTS, LETTER-OF-CREDIT RIGHTS, SUPPORTING OBLIGATIONS, AND OTHER PERSONAL PROPERTY NOW OWNED OR HEREAFTER ACQUIRED BY BORROWER(S), AND ANY AND ALL PROCEEDS, PRODUCTS, INCREASES, ADDITIONS, ACCESSIONS, SUBSTITUTIONS AND REPLACEMENTS, IN, ON, THERETO AND THEREFROM; ALL RECORDS OF ANY KIND RELATING TO ANY OF THE FOREGOING; AND ALL PROCEEDS RELATING TO ANY OF THE FOREGOING (INCLUDING INSURANCE, GENERAL INTANGIBLES, AND ACCOUNTS 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 record) (or recorded) in the REAL ESTATE RECORDS. ☐ Attach Addendum ☐ Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional) ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2**8. OPTIONAL FILER REFERENCE DATA**



**Kansas Secretary of State
Online UCC Filing System
Acknowledgment of Filing**

691
Approved

Page 1 of 1
HAA0144
H012453

UCC # 94705044
Barker

Time of Transaction: 07-01-2011 11:17:07 AM

Filing Type: Continuation

Filing Number: 98651186 Initial Filing Number: 94705044

Initial Filing:

Debtor Information
HOWISON HEIGHTS, INC. 721 E NEAL AVE SALINA, KS 674017727
HOWISON, TIMOTHY B 721 E NEAL AVE SALINA, KS 67401
Secured Party Information
CENTRAL NATIONAL BANK P.O. BOX 1029 JUNCTION CITY, KS 66441

Amendment:

Authorizing Party Information
CENTRAL NATIONAL BANK
Collateral Information

[Back to Listing](#)

EXHIBIT H

TIMOTHY B. HOWISON; MELINDA S. HOWISON
1212 MEYER DR
SAJINA, KS 67401-5274

Central National Bank
PO Box 129
600 Maple
Gypsum, KS 67448

LP Initials KSL
Loan Number 5216
Date 12-30-2008
Maturity Date 12-30-2018
Loan Amount \$ 77,800.00
Renewal Of

BORROWER'S NAME AND ADDRESS
"I" includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns.

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of seventy seven thousand eight hundred and no/100 Dollars \$ 77,800.00

☒ Single Advance: I will receive all of this principal sum on 12-30-2008. No additional advances are contemplated under this note.

☐ Multiple Advances: The principal sum shown above is the maximum amount of principal I can borrow under this note. On _____ I will receive the amount of \$ _____ and future principal advances are contemplated.

Conditions: The conditions for future advances are _____

☐ Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on _____.

☐ Closed End Credit: You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from 12-30-2008 at the rate of 7.000 % per year until 12-30-2011.

☒ Variable Rate: This rate may then change as stated below.

☒ Index Rate: The future rate will be 5.490 percent above the following index rate: Previous months average yield on US Treasury 3 year CMT as published in the most recent Federal Reserve H.15.

☐ No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

☒ Frequency and Timing: The rate on this note may change as often as every 3rd payment beginning 12-30-2011.

A change in the interest rate will take effect On the same day.

☐ Limitations: During the term of this loan, the applicable annual interest rate will not be more than _____ % or less than _____ %.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

☐ The amount of each scheduled payment will change.

☒ The amount of the final payment will change.

ACCRAUAL METHOD: Interest will be calculated on a Actual/360 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

☐ on the same fixed or variable rate basis in effect before maturity (as indicated above).

☒ at a rate equal to 12.00 PERCENT PER ANNUM

☒ LATE CHARGE: If a payment is made more than 10 days after it is due, I agree to pay a late charge of 5.000% of the late amount with a min of \$25.00

☒ ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which ☒ are ☐ are not included in the principal amount above: \$150.00 DOC PREP FEE

PAYMENTS: I agree to pay this note as follows:

10 annual payments of \$11,128.54 beginning 12-30-2009. This is a variable rate loan and the final payment amount may change.

ADDITIONAL TERMS:

A MINIMUM INTEREST CHARGE OF \$25.00 APPLIES.

PREPAYMENT: I AGREE THAT IF AT ANYTIME DURING THE FIRST 5 YEARS OF THIS LOAN I CHOOSE TO PREPAY THE LOAN BY REFINANCE, THEN I AGREE TO PAY YOU A PREPAYMENT PENALTY OF 2% OF THE OUTSTANDING PRINCIPAL BALANCE AT THE TIME OF PREPAYMENT. THIS PREPAYMENT PENALTY APPLIES ONLY TO NOTES WITH AN ORIGINAL LOAN AMOUNT OF \$500,000 OR GREATER AND A MATURITY DATE BEYOND 1 YEAR.

SECURITY: Real Estate Mortgages dated 1-8-2007, 1-17-2007, 5-17-2007, 8-4-2006, 11-8-2005, Two Security Agreements dated 8-18-2008.

☒ SECURITY: This note is separately secured by (describe separate document by type and date):

ANY AND ALL SECURITY DOCUMENTS EXECUTED BY BORROWER TO CENTRAL NATIONAL BANK IN THE PAST, NOW, OR IN THE FUTURE.

(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure the note.)

Signature for Lender

Marty G Redden, President

PURPOSE: The purpose of this loan is WORKING CAPITAL

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE INCLUDING THOSE ON PAGE 21. I have received a copy on today's date.

Timothy B. Howison
TIMOTHY B. HOWISON
Melinda S. Howison
MELINDA S. HOWISON

UNIVERSAL NOTE

Expo © 1994, 1991 Bankers Systems, Inc., St. Cloud, MN Form UN 34/2002

(page 1 of 2)

Expo™ ©1984, 1991 Barker Systems, Inc., St. Cloud, MN Form UM 3/4/2002

EXHIBIT I

THE C.W. LYNN ABSTRACT
COMPANY, INC.
121 N. 7th
Salina, Kansas 67401
File # 7106-1207

449 1/9/07

REBECCA SEEKAN
REGISTER OF DEEDS
SALINE COUNTY KANSAS
Books: 1143 Pages: 1188
Receipt #: 38750 Total Fees: \$48.00
Mortgage #: 58 Mortgage Amt: \$79,000.00
Pages Recorded: 9 Registration Tax: \$205.48
Date Recorded: 1/18/2007 11:23:47 AM

Return To: CENTRAL NATIONAL BANK
PO BOX 1029 JUNCTION CITY, KS 66441
Prepared By: CENTRAL NATIONAL BANK
PO BOX 1029 JUNCTION CITY, KS 66441

State of Kansas

Space Above This Line For Recording Data

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is 01-09-2007
and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR:

TIMOTHY B. HOWISON AND MELINDA S. HOWISON, HUSBAND AND WIFE
1212 MEYER DR
SALINA, KS 67401-5274

- ☐ If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER:

CENTRAL NATIONAL BANK
ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA
454 S OHIO
SALINA, KS 67401

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys, mortgages and warrants to Lender the following described property:

LOT EIGHT (8) AND LOT EIGHTEEN (18), BIG VALLEY ADDITION, P.U.D., IN SALINE COUNTY, KANSAS.

The property is located in SALINE (County) at LOT 8 & LOT 18 BIG VALLEY
SALINA (City), Kansas 67401 (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, all water and riparian rights, wells, ditches, reservoirs, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 79,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument. The limitation is for the purposes set forth in K.S.A. § 9-1101, § 58-2336 and § 79-3102.
4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:
 A. ~~Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)~~
 PROMISSORY NOTE 0786 DATED 1/08/2007.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Security Instrument whether or not this Security Instrument is specifically referenced, or such future advances or future obligations are incurred for any purpose that was related or unrelated to the purpose of the Security Instrument. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.
6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, mortgage and warrant the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

(page 2 of 8)

- A. To make all payments when due and to perform or comply with all covenants.
- B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

8. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.

10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if:

- A. A beneficial interest in Mortgagor is sold or transferred.
- B. There is a change in either the identity or number of members of a partnership or similar entity.
- C. There is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity.

However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.

11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall continue as long as the Secured Debt remains outstanding:

- A. Mortgagor is duly organized and validly existing in Mortgagor's state of incorporation or organization. Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Security Instrument by Mortgagor and the obligations evidenced by the Secured Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than previously disclosed in writing to Lender, Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

(page 3 of 3)

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor assigns, grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in the following (Property).

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).

B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender, and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. **DEFAULT.** Mortgagor will be in default if any of the following occur:

A. Any party obligated on the Secured Debt fails to make payment when due;

B. A breach of any term or covenant in this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt;

C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt,

(page 4 of 9)

- D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any other person or entity obligated on the Secured Debt;
- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

17. REMEDIES ON DEFAULT. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all reasonable costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, collection agency fees or attorneys' fees, but not both, and other legal costs and expenses incurred by Lender in exercising any remedy under this Loan or under the law, for all persons other than salaried employees of Lender. This Security Instrument shall remain in effect until released.

19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste," "hazardous substance" or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the

(page 5 of 9)

Property, or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.

F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property, or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.

L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

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

21. **INSURANCE.** Mortgagor agrees to maintain insurance as follows.

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

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

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

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

22. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

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

24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.

25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.

26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

27. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all appraisal, homestead exemption, and redemption rights relating to the Property. However, the waiver of redemption is not applicable to that portion of the Property that covers agricultural land or a single or two-family dwelling owned by or held in trust for a natural person.

28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Security Instrument:

- ☐ **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
- ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

(page 2 of 3)

- ☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
- ☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property, including all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property (all of which shall also be included in the term "Property"). The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
- ☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Security Instrument also suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.

29. OTHER TERMS. If checked, the following are applicable to this Security Instrument:

- ☐ **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
- ☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.
- ☐ **Purchase Money Mortgage.** The Secured Debt includes money which is used in whole or in part to purchase the Property.
- ☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- ☐ **Additional Terms.**

30. WAIVER OF JURY TRIAL. To the extent not prohibited by law, Mortgagor and Lender knowingly and intentionally waive the right, which the party may have, to a trial by jury with respect to any litigation arising from the Secured Debt, or any other agreement executed in conjunction with the Evidence of Debt and this Mortgage. Mortgagor and Lender each acknowledge that this section has either been brought to the attention of each party's legal counsel or that each party had the opportunity to do so.

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

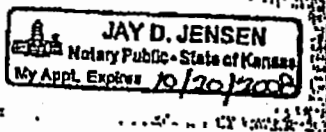
Entity Name: _____

Timothy B. Howison *Melinda S. Howison* 1/13/2007
 (Signature) TIMOTHY B. HOWISON (Date) (Signature) MELINDA S. HOWISON (Date)

(Signature) _____ (Date) _____ (Signature) _____ (Date) _____

ACKNOWLEDGMENT:

STATE OF KANSAS COUNTY OF Saline) ss.
 (Individual) This instrument was acknowledged before me this 9TH day of JANUARY, 2007
 by TIMOTHY B. HOWISON; MELINDA S. HOWISON, HUSBAND AND WIFE
 My commission expires: _____



Jay D. Jensen
 (Notary Public)

STATE OF _____ COUNTY OF _____) ss.
 (Business of Entity Acknowledgment) This instrument was acknowledged before me this _____ day of _____
 by _____ (Title(s))
 of _____ (Name of Business or Entity)
 a _____ on behalf of the
 business or entity.
 My commission expires: _____

 (Notary Public)

4000
 205.40
 39 Excess

EXHIBIT J

LAND TITLE SERVICES, INC.
123 N. 7th Street
SE 1/4, KS 67401 **47990**
FILE #

SArcible -
28029584P
(47) 10/17/08



REBECCA SEEMAN
REGISTER OF DEEDS SALINE COUNTY KANSAS

Book: 1184 Page: 401

Receipt #: 52934
Mortgage #: 2648
Pages Recorded: 10

Recording Fee: \$44.00
Document Fee: \$273.00
Mortgage Amount: \$109,000.00

Rebecca Seeman

Date Recorded: 12/24/2008 10:41:11 AM

Return To: Central National Bank
po box 1029 Junction city, ks 66441

Prepared By: Central National Bank
po box 1029 Junction city, ks 66441

State of Kansas

Space Above This Line For Recording Data

REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is 10-17-2008

and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR:

ROGER K. SIEMSEN and JENIFER L. SIEMSEN, Husband and Wife
1701 EAGLECREST RD
SALINA, KS 67401-8996

- ☐ If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER:

Central National Bank
Organized and existing under the laws of the United States of America
454 S Ohio
Salina, KS 67401

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys, mortgages and warrants to Lender the following described property:

See attached Exhibit A

The property is located in Salina at 2245 Saddlebrook, 2247
(County)

Saddlebrook, Lot 14, b/7 River Trail, L/25 and L/26, B/4 River Trail, Kansas 67401
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, all water and riparian rights, wells, ditches, reservoirs, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 105,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument. The limitation is for the purposes set forth in K.S.A. § 9-1101, § 58-2336 and § 79-3102.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:

A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)

promissory note # 9534 dated 10/17/2008.

B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Security Instrument whether or not this Security Instrument is specifically referenced, or such future advances or future obligations are incurred for any purpose that was related or unrelated to the purpose of the Security Instrument. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.

C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.

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

This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.
6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, mortgage and warrant the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

(page 2 of 9)

- A. To make all payments when due and to perform or comply with all covenants.
- B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

8. CLAIMS AGAINST TITLE. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

9. DUE ON SALE OR ENCUMBRANCE. Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 581), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.

10. TRANSFER OF AN INTEREST IN THE MORTGAGOR. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if:

- A. A beneficial interest in Mortgagor is sold or transferred.
- B. There is a change in either the identity or number of members of a partnership or similar entity.
- C. There is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity.

However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.

11. ENTITY WARRANTIES AND REPRESENTATIONS. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall continue as long as the Secured Debt remains outstanding:

- A. Mortgagor is duly organized and validly existing in Mortgagor's state of incorporation or organization. Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Security Instrument by Mortgagor and the obligations evidenced by the Secured Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than previously disclosed in writing to Lender, Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

(page 3 of 9)

13. AUTHORITY TO PERFORM. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

14. ASSIGNMENT OF LEASES AND RENTS. Mortgagor assigns, grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in the following (Property):

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases);

B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. DEFAULT. Mortgagor will be in default if any of the following occur:

- A. Any party obligated on the Secured Debt fails to make payment when due;
- B. A breach of any term or covenant in this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt;
- C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;

(page 4 of 9)

- D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any other person or entity obligated on the Secured Debt;
- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

17. REMEDIES ON DEFAULT. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all reasonable costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, collection agency fees or attorneys' fees, but not both, and other legal costs and expenses incurred by Lender in exercising any remedy under this Loan or under the law, for all persons other than salaried employees of Lender. This Security Instrument shall remain in effect until released.

19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste," "hazardous substance," or "regulated substance," under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the

(page 5 of 9)

- Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
- E. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.
 - L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
20. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
21. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debt. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.
- All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

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

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
 - C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
22. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
23. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.
25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
27. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all appraisal, homestead exemption, and redemption rights relating to the Property. However, the waiver of redemption is not applicable to that portion of the Property that covers agricultural land or a single or two-family dwelling owned by or held in trust for a natural person.
28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Security Instrument:
- ☐ **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
 - ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

(page 7 of 9)

- ☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
- ☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property, including all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property (all of which shall also be included in the term "Property"). The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

- ☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Security Instrument also suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.

29. OTHER TERMS. If checked, the following are applicable to this Security Instrument:

- ☐ **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
- ☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.
- ☐ **Purchase Money Mortgage.** The Secured Debt includes money which is used in whole or in part to purchase the Property.
- ☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- ☐ **Additional Terms.**

30. WAIVER OF JURY TRIAL. To the extent not prohibited by law, Mortgagor and Lender knowingly and intentionally waive the right, which the party may have, to a trial by jury with respect to any litigation arising from the Secured Debt, or any other agreement executed in conjunction with the Evidence of Debt and this Mortgage. Mortgagor and Lender each acknowledge that this section has either been brought to the attention of each party's legal counsel or that each party had the opportunity to do so.

(page 8 of 9)

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

Entity Name: _____

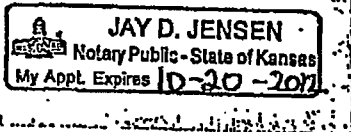
Roger K. Siemsen 10-17-08 Jennifer L. Siemsen 10-17-08
 (Signature) ROGER K. SIEMSEN (Date) (Signature) JENIFER L. SIEMSEN (Date)

(Signature) _____ (Date) _____ (Signature) _____ (Date) _____

ACKNOWLEDGMENT:

STATE OF Kansas, COUNTY OF Saline } ss.
 (Individual) This instrument was acknowledged before me this 17th day of October, 2008
 by ROGER K. SIEMSEN; JENIFER L. SIEMSEN, Husband and Wife
 My commission expires: _____

Jay D. Jensen
 (Notary Public)



STATE OF _____, COUNTY OF _____ } ss.
 This instrument was acknowledged before me this _____ day of _____
 by _____
 _____ (Title(s))
 of _____ (Name of Business or Entity)
 a _____ on behalf of the
 business or entity.
 My commission expires: _____

 (Notary Public)

EXHIBIT A

✓TR#1: A PARCEL OF LAND LOCATED IN LOT SIX (6), BLOCK FOUR (4), RIVER TRAIL ADDITION TO THE CITY OF SALINA, SALINE COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT SIX (6); THENCE ON AN ASSUMED BEARING OF NORTH 27 DEGREES 03' 06" WEST ALONG THE WEST LINE OF SAID LOT SIX (6) A DISTANCE OF FORTY-ONE AND FORTY HUNDREDTHS (41.40') FEET; THENCE NORTH 62 DEGREES 51' 41" EAST ALONG A COMMON WALL, AND EXTENSIONS THEREOF, A DISTANCE OF ONE HUNDRED FIFTY-ONE AND SIXTEEN HUNDREDTHS (51.16') FEET TO A POINT ON THE EAST LINE OF FORTY-ONE AND SEVENTY-THREE HUNDREDTHS (41.73') FEET TO THE SOUTHEAST CORNER OF SAID LOT SIX (6); THENCE SOUTH 62 DEGREES 58' 51" WEST ALONG THE SOUTH LINE OF SAID LOT SIX (6) A DISTANCE OF ONE HUNDRED FIFTY AND THREE HUNDREDTHS (150.03') FEET TO THE POINT OF BEGINNING

✓TR#2: A PARCEL OF LAND LOCATED IN LOT SIX (6), BLOCK FOUR (4), RIVER TRAIL ADDITION TO THE CITY OF SALINA, SALINE COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT SIX (6); THENCE ON AN ASSUMED BEARING OF NORTH 62 DEGREES 58' 50" EAST ALONG THE NORTH LINE OF SAID LOT SIX (6) A DISTANCE OF ONE HUNDRED FIFTY-TWO AND TWENTY-EIGHT HUNDREDTHS (152.28') FEET TO THE NORTHEAST CORNER OF SAID LOT SIX (6); THENCE SOUTH 25 DEGREES 30' 04" EAST ALONG THE EAST LINE OF SAID LOT SIX (6) A DISTANCE OF FORTY-ONE AND THIRTY HUNDREDTHS (41.30') FEET; THENCE SOUTH 62 DEGREES 51' 41" WEST ALONG A COMMON WALL, AND EXTENSIONS THEREOF, A DISTANCE OF ONE HUNDRED FIFTY-ONE AND SIXTEEN HUNDREDTHS (151.16') FEET TO A POINT ON THE WEST LINE OF SAID LOT SIX (6); THENCE NORTH 27 DEGREES 03' 06" WEST ALONG SAID WEST LINE A DISTANCE OF FORTY-ONE AND SIXTY HUNDREDTHS (41.60') FEET TO THE POINT OF BEGINNING

✓TR#3: LOT FOURTEEN (14), BLOCK SEVEN (7), RIVER TRAIL ADDITION TO THE CITY OF SALINA, SALINE COUNTY, KANSAS

✓TR#4: LOTS TWENTY-FIVE (25) AND TWENTY-SIX (26), BLOCK FOUR (4), RIVER TRAIL ADDITION TO THE CITY OF SALINA, SALINE COUNTY, KANSAS

4400
27300

EXHIBIT K

53 5/17/07

DEBTOR NAME AND ADDRESS	SECURED PARTY NAME AND ADDRESS
TIMOTHY B. HOWISON AND MELINDA S. HOWISON 1212 MEYER DR SALINA, KS 67401-5274	CENTRAL NATIONAL BANK 454 S OHIO SALINA, KS 67401
Type: <input checked="" type="checkbox"/> individual <input type="checkbox"/> partnership <input type="checkbox"/> corporation <input type="checkbox"/> _____ State of organization/registration (if applicable) _____ <input type="checkbox"/> If checked, refer to addendum for additional Debtors and signatures.	

COMMERCIAL SECURITY AGREEMENT

The date of this Commercial Security Agreement (Agreement) is 05/17/2007.

SECURED DEBTS. This Agreement will secure all sums advanced by Secured Party under the terms of this Agreement and the payment and performance of the following described Secured Debts that (check one) ☒ Debtor ☐ _____ (Borrower) owes to Secured Party:

☐ Specific Debts. The following debts and all extensions, renewals, refinancings, modifications, and replacements (describe):

☒ All Debts. All present and future debts, even if this Agreement is not referenced, the debts are also secured by other collateral, or the future debt is unrelated to or of a different type than the current debt. Nothing in this Agreement is a commitment to make future loans or advances.

SECURITY INTEREST. To secure the payment and performance of the Secured Debts, Debtor gives Secured Party a security interest in all of the Property described in this Agreement that Debtor owns or has sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products of the Property. "Property" includes all parts, accessories, repairs, replacements, improvements, and accessions to the Property; any original evidence of title or ownership; and all obligations that support the payment or performance of the Property. "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property; and any collections and distributions on account of the Property. This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and Secured Party is no longer obligated to advance funds to Debtor or Borrower.

PROPERTY DESCRIPTION. The Property is described as follows:


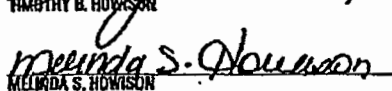
- ☒ Accounts and Other Rights to Payments: All rights to payments, whether or not earned by performance, including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned. This includes any rights and interests (including all liens) which Debtor may have by law or agreement against any account debtor or obligor of Debtor.
- ☒ Inventory: All inventory held for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in Debtor's business.
- ☒ Equipment: All equipment including, but not limited to, machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and record keeping equipment, parts, and tools. The Property includes any equipment described in a list or schedule Debtor gives to Secured Party, but such a list is not necessary to create a valid security interest in all of Debtor's equipment.
- ☒ Instruments and Chattel Paper: All instruments, including negotiable instruments and promissory notes and any other writings or records that evidence the right to payment of a monetary obligation, and tangible and electronic chattel paper.
- ☒ General Intangibles: All general intangibles including, but not limited to, tax refunds, patents and applications for patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and franchises, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs, and the right to use Debtor's name.
- ☒ Documents: All documents of title including, but not limited to, bills of lading, dock warrants and receipts, and warehouse receipts.
- ☒ Farm Products and Supplies: All farm products including, but not limited to, all poultry and livestock and their young, along with their produce, products, and replacements; all crops, annual or perennial, and all products of the crops; and all feed, seed, fertilizer, medicines, and other supplies used or produced in Debtor's farming operations.
- ☒ Government Payments and Programs: All payments, accounts, general intangibles, and benefits including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance and diversion payments, production flexibility contracts, and conservation reserve payments under any preexisting, current, or future federal or state government program.
- ☒ Investment Property: All investment property including, but not limited to, certificated securities, uncertificated securities, securities entitlements, securities accounts, commodity contracts, commodity accounts, and financial assets.
- ☒ Deposit Accounts: All deposit accounts including, but not limited to, demand, time, savings, passbook, and similar accounts.
- ☒ Specific Property Description: The Property includes, but is not limited by, the following (if required, provide real estate description):

REAL ESTATE MORTGAGE DATED 05/17/2007.

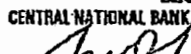
USE OF PROPERTY. The Property will be used for ☐ personal ☒ business ☐ agricultural ☐ _____ purposes.

SIGNATURES. Debtor agrees to the terms on pages 1 and 2 of this Agreement and acknowledges receipt of a copy of this Agreement.

DEBTOR


TIMOTHY B. HOWISON

MELINDA S. HOWISON

SECURED PARTY

CENTRAL NATIONAL BANK

JAY D. JENSEN
COMMERCIAL LENDER

GENERAL PROVISIONS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. Secured Party may sue each Debtor individually or together with any other Debtor. Secured Party may release any part of the Property and Debtor will remain obligated under this Agreement. The duties and benefits of this Agreement will bind the successors and assigns of Debtor and Secured Party. No modification of this Agreement is effective unless made in writing and signed by Debtor and Secured Party. Whenever used, the plural includes the singular and the singular includes the plural. Time is of the essence.

APPLICABLE LAW. This Agreement is governed by the laws of the state in which Secured Party is located. In the event of a dispute, the exclusive forum, venue, and place of jurisdiction will be the state in which Secured Party is located, unless otherwise required by law. If any provision of this Agreement is unenforceable by law, the unenforceable provision will be severed and the remaining provisions will still be enforceable.

NAME AND LOCATION. Debtor's name indicated on page 1 is Debtor's exact legal name. If Debtor is an individual, Debtor's address is Debtor's principal residence. If Debtor is not an individual, Debtor's address is the location of Debtor's chief executive offices or sole place of business. If Debtor is an entity organized and registered under state law, Debtor has provided Debtor's state of registration on page 1. Debtor will provide verification of registration and location upon Secured Party's request. Debtor will provide Secured Party with at least 30 days notice prior to any change in Debtor's name, address, or state of organization or registration.

WARRANTIES AND REPRESENTATIONS. Debtor has the right, authority, and power to enter into this Agreement. The execution and delivery of this Agreement will not violate any agreement governing Debtor or Debtor's property, or to which Debtor is a party. Debtor makes the following warranties and representations which continue as long as this Agreement is in effect:

- (1) Debtor is duly organized and validly existing in all jurisdictions in which Debtor does business;
- (2) the execution and performance of the terms of this Agreement have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law or order;
- (3) other than previously disclosed to Secured Party, Debtor has not changed Debtor's name or principal place of business within the last 10 years and has not used any other trade or fictitious name; and
- (4) Debtor does not and will not use any other name without Secured Party's prior written consent.

Debtor owns all of the Property, and Secured Party's claim to the Property is ahead of the claims of any other creditor, except as otherwise agreed and disclosed to Secured Party prior to any advance on the Secured Debts. The Property has not been used for any purpose that would violate any laws or subject the Property to forfeiture or seizure.

DUTIES TOWARD PROPERTY. Debtor will protect the Property and Secured Party's interest against any competing claim. Except as otherwise agreed, Debtor will keep the Property in Debtor's possession at the address indicated on page 1 of this Agreement. Debtor will keep the Property in good repair and use the Property only for purposes specified on page 1. Debtor will not use the Property in violation of any law and will pay all taxes and assessments levied or assessed against the Property. Secured Party has the right of reasonable access to inspect the Property, including the right to require Debtor to assemble and make the Property available to Secured Party. Debtor will immediately notify Secured Party of any loss or damage to the Property. Debtor will prepare and keep books, records, and accounts about the Property and Debtor's business, to which Debtor will allow Secured Party reasonable access.

Debtor will not sell, offer to sell, license, lease, or otherwise transfer or encumber the Property without Secured Party's prior written consent. Any disposition of the Property will violate Secured Party's rights, unless the Property is inventory sold in the ordinary course of business at fair market value. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, Debtor will record Secured Party's interest on the face of the chattel paper or instruments.

If the Property includes accounts, Debtor will not settle any account for less than the full value, dispose of the accounts by assignment, or make any material change in the terms of any account without Secured Party's prior written consent. Debtor will collect all accounts in the ordinary course of business, unless otherwise required by Secured Party. Debtor will keep the proceeds of the accounts, and any goods returned to Debtor, in trust for Secured Party and will not commingle the proceeds or returned goods with any of Debtor's other property. Secured Party has the right to require Debtor to pay Secured Party the full price on any returned items. Secured Party may require account debtors to make payments under the accounts directly to Secured Party. Debtor will deliver the accounts to Secured Party at Secured Party's request. Debtor will give Secured Party all statements, reports, certificates, lists of account debtors (showing names, addresses, and amounts owing), invoices applicable to each account, and any other data pertaining to the accounts as Secured Party requests.

If the Property includes farm products, Debtor will provide Secured Party with a list of the buyers, commission merchants, and selling agents to or through whom Debtor may sell the farm products. Debtor authorizes Secured Party to notify any additional parties regarding Secured Party's interest in Debtor's farm products, unless prohibited by law. Debtor agrees to plant, cultivate, and harvest crops in due season. Debtor will be in default if any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetland to produce or to make possible the production of an agricultural commodity, further explained in 7 CFR Part 1940, Subpart G, Exhibit M. If Debtor pledges the Property to Secured Party (delivers the Property into the possession or control of Secured Party or a designated third party), Debtor will, upon receipt, deliver any proceeds and products of the Property to Secured Party. Debtor will provide Secured Party with any notices, documents, financial statements, reports, and other information relating to the Property Debtor receives as the owner of the Property.

PERFECTION OF SECURITY INTEREST. Debtor authorizes Secured Party to file a financing statement covering the Property. Debtor will comply with, facilitate, and otherwise assist Secured Party in connection with obtaining possession or control over the Property for purposes of perfecting Secured Party's interest under the Uniform Commercial Code.

INSURANCE. Debtor agrees to keep the Property insured against the risks reasonably associated with the Property until the Property is released from this Agreement. Debtor will maintain this insurance in the amounts Secured Party requires. Debtor may choose the insurance company, subject to Secured Party's approval, which will not be unreasonably withheld. Debtor will have the insurance provider name Secured Party as loss payee on the insurance policy. Debtor will give Secured Party and the insurance provider immediate notice of any loss. Secured Party may apply the insurance proceeds toward the Secured Debts. Secured Party may require additional security as a condition of permitting any insurance proceeds to be used to repair or replace the Property. If Secured Party acquires the Property in damaged condition, Debtor's rights to any insurance policies and proceeds will pass to Secured Party to the extent of the Secured Debts. Debtor will immediately notify Secured Party of the cancellation or termination of insurance. If Debtor fails to keep the Property insured, or fails to provide Secured Party with proof of insurance, Secured Party may obtain insurance to protect Secured Party's interest in the Property. The insurance may include coverages not originally required of Debtor, may be written by a company other than one Debtor would choose, and may be written at a higher rate than Debtor could obtain if Debtor purchased the insurance.

AUTHORITY TO PERFORM. Debtor authorizes Secured Party to do anything Secured Party deems reasonably necessary to protect the Property and Secured Party's interest in the Property. If Debtor fails to perform any of Debtor's duties under this Agreement, Secured Party is authorized, without notice to Debtor, to perform the duties or cause them to be performed. These authorizations include, but are not limited to, permission to pay for the repair, maintenance, and preservation of the Property and take any action to realize the value of the Property. Secured Party's authority to perform for Debtor does not create an obligation to perform, and Secured Party's failure to perform will not preclude Secured Party from exercising any other rights under the law or this Agreement. If Secured Party performs for Debtor, Secured Party will use reasonable care. Reasonable care will not include any steps necessary to preserve rights against prior parties or any duty to take action in connection with the management of the Property.

If Secured Party comes into possession of the Property, Secured Party will preserve and protect the Property to the extent required by law. Secured Party's duty of care with respect to the Property will be satisfied if Secured Party exercises reasonable care in the safekeeping of the Property or in the selection of a third party in possession of the Property.

Secured Party may enforce the obligations of an account debtor or other person obligated on the Property. Secured Party may exercise Debtor's rights with respect to the account debtor's or other person's obligations to make payment or otherwise render performance to Debtor, and enforce any security interest that secures such obligations.

PURCHASE MONEY SECURITY INTEREST. If the Property includes items purchased with the Secured Debts, the Property purchased with the Secured Debts will remain subject to Secured Party's security interest until the Secured Debts are paid in full. Payments on any non-purchase money loan also secured by this Agreement will not be applied to the purchase money loan. Payments on the purchase money loan will be applied first to the non-purchase money portion of the loan, if any, and then to the purchase money portion in the order in which the purchase money Property was acquired. If the purchase money Property was acquired at the same time, payments will be applied in the order Secured Party selects. No security interest will be terminated by application of this formula.

DEFAULT. Debtor will be in default if:

- (1) Debtor (or Borrower, if not the same) fails to make a payment in full when due;
- (2) Debtor fails to perform any condition or keep any covenant on this or any debt or agreement Debtor has with Secured Party;
- (3) a default occurs under the terms of any instrument or agreement evidencing or pertaining to the Secured Debts;
- (4) anything else happens that either causes Secured Party to reasonably believe that Secured Party will have difficulty in collecting the Secured Debts or significantly impairs the value of the Property.

REMEDIES. After Debtor defaults, and after Secured Party gives any legally required notice and opportunity to cure the default, Secured Party may at Secured Party's option do any one or more of the following:

- (1) make all or any part of the Secured Debts immediately due and accrue interest at the highest post-maturity interest rate;
- (2) require Debtor to gather the Property and make it available to Secured Party in a reasonable fashion;
- (3) enter upon Debtor's premises and take possession of all or any part of Debtor's property for purposes of preserving the Property or its value and use and operate Debtor's property to protect Secured Party's interest, all without payment or compensation to Debtor;
- (4) use any remedy allowed by state or federal law, or provided in any agreement evidencing or pertaining to the Secured Debts.

If Secured Party repossesses the Property or enforces the obligations of an account debtor, Secured Party may keep or dispose of the Property as provided by law. Secured Party will apply the proceeds of any collection or disposition first to Secured Party's expenses of enforcement, which includes reasonable attorneys' fees and legal expenses to the extent not prohibited by law, and then to the Secured Debts. Debtor (or Borrower, if not the same) will be liable for the deficiency, if any.

By choosing any one or more of these remedies, Secured Party does not give up the right to use any other remedy. Secured Party does not waive a default by not using a remedy.

WAIVER. Debtor waives all claims for damages caused by Secured Party's acts or omissions where Secured Party acts in good faith.

NOTICE AND ADDITIONAL DOCUMENTS. Where notice is required, Debtor agrees that 10 days prior written notice will be reasonable notice to Debtor under the Uniform Commercial Code. Notice to one party is notice to all parties. Debtor agrees to sign, deliver, and file any additional documents and certifications Secured Party considers necessary to perfect, continue, or preserve Debtor's obligations under this Agreement and to confirm Secured Party's lien status on the Property.

(53) 6.18.18

DEBTOR NAME AND ADDRESS	SECURED PARTY NAME AND ADDRESS
GOLDEN EAGLE ESTATES LTD 212 S DELAWARE AVE SALINA, KS 67401-3204	CENTRAL NATIONAL BANK PO BOX 129 600 MAPLE GYPSUM, KS 67448

Type ☐ individual ☐ partnership ☒ corporation ☐ _____
 State of organization/registration (if applicable) KS
☐ If checked, refer to addendum for additional Debtors and signatures

COMMERCIAL SECURITY AGREEMENT

The date of this Commercial Security Agreement (Agreement) is 06-18-2008.

SECURED DEBTS. This Agreement will secure all sums advanced by Secured Party under the terms of this Agreement and the payment and performance of the following described Secured Debts that (check one) ☐ Debtor ☒ DANIEL H. HOWISON, MELINDA S. HOWISON

(Borrower) owes to Secured Party

☐ Specific Debts. The following debts and all extensions, renewals, refinancing, modifications, and replacements (describe):

☒ All Debts. All present and future debts, even if this Agreement is not referenced. The debts are also secured by other collateral, or the future debt is unrelated to or of a different type than the current debt. Nothing in this Agreement is a commitment to make future loans or advances.

SECURITY INTEREST. To secure the payment and performance of the Secured Debts, Debtor gives Secured Party a security interest in all of the Property described in this Agreement that Debtor owns or has sufficient rights in which to transfer an interest, now or in the future, wherever the Property is or will be located, and all proceeds and products of the Property "Property" includes all parts, accessories, repairs, replacements, improvements, and additions to the Property, any original evidence of title or ownership, and all obligations that support the payment or performance of the Property "Proceeds" includes anything acquired upon the sale, lease, license, exchange, or other disposition of the Property; any rights and claims arising from the Property and any collections and distributions on account of the Property. This Agreement remains in effect until terminated in writing, even if the Secured Debts are paid and Secured Party is no longer obligated to advance funds to Debtor or Borrower.

PROPERTY DESCRIPTION. The Property is described as follows:

- ☒ Accounts and Other Rights to Payment: All rights to payment, whether or not earned by performance, including, but not limited to, payment for property or services sold, leased, rented, licensed, or assigned. This includes any rights and interests (including all liens) which Debtor may have by law or agreement against any account debtor or obligor of Debtor.
- ☒ Inventory: All inventory held for sale, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in Debtor's business.
- ☒ Equipment: All equipment including, but not limited to, machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and record keeping equipment, parts, and tools. The Property includes any equipment described in a list or schedule Debtor gives to Secured Party, but such a list is not necessary to create a valid security interest in all of Debtor's equipment.
- ☒ Instruments and Chattel Papers: All instruments, including negotiable instruments and promissory notes and any other writings or records that evidence the right to payment of a monetary obligation, and tangible and electronic chattel paper.
- ☒ General Intangibles: All general intangibles including, but not limited to, tax refunds, patents and applications for patents, copyrights, trademarks, trade secrets, goodwill, trade names, customer lists, permits and licenses, payment intangibles, computer programs and all supporting information provided in connection with a transaction relating to computer programs and the right to use Debtor's name.
- ☒ Documents: All documents of title including, but not limited to, bills of lading, dock warrants and receipts, and warehouse receipts.
- ☒ Farm Products and Supplies: All farm products including, but not limited to, all poultry and livestock and their young, along with their products, products, and replacements, all crops, annual or perennial, and all products of the crops, and all feed, seed, fertilizer, medicines, and other supplies used or produced in Debtor's farming operations.
- ☒ Government Payments and Programs: All payments, accounts, general intangibles, and benefits including, but not limited to, payments in kind, deficiency payments, loans of equipment, warehouse receipts, storage payments, emergency assistance and diversion payments, production flexibility contracts, and conservation reserve payments under any present, current, or future federal or state government program.
- ☒ Investment Property: All investment property including, but not limited to, certificated securities, unaffiliated securities, securities entitlements, securities accounts, commodity contracts, commodity accounts and financial assets.
- ☒ Deposit Accounts: All deposit accounts including, but not limited to, demand, time, savings, passbook, and similar accounts.
- ☒ Specific Property Description: The Property includes, but is not limited to, the following (if required, provide real estate description):

FURNITURE, FURNISHINGS, FIXTURES, INVENTORY, DOCUMENTS, INSTRUMENTS (INCLUDING PROMISSORY NOTES), ACCOUNTS (INCLUDING HEALTHCARE INSURANCE RECEIVABLES), GENERAL INTANGIBLES (INCLUDING PAYMENT INTANGIBLES), CHATTEL PAPER, ACCOUNTS RECEIVABLE, SUPPLIES, STOCK IN TRADE, CONTRACT RIGHTS, RENTS AND REVENUE, RIGHTS TO PAYMENT, MACHINERY, EQUIPMENT, VEHICLES, TOOLS, LEASES, APPLIANCES, INVESTMENT PROPERTY, DEPOSIT ACCOUNTS, LETTER OF CREDIT RIGHTS, SUPPORTING OBLIGATIONS, AND OTHER PERSONAL PROPERTY NOW OWNED OR HEREFTER ACQUIRED BY BORROWERS, AND ANY AND ALL PROCEEDS, PRODUCTS, INCREASES, ADDITIONS, ACCESSIONS, SUBSTITUTIONS AND REPLACEMENTS, IN, ON, THEREIN AND THEREFROM ALL RECORDS OF ANY KIND RELATING TO ANY OF THE FOREGOING AND ALL PROCEEDS RELATING TO ANY OF THE FOREGOING (INCLUDING INSURANCE, GENERAL INTANGIBLES, AND ACCOUNTS PROCEEDS); 50% UNDIVIDED INTEREST IN REAL ESTATE MORTGAGE DATED 11-08-2005 RECORDED 11-11-2005 IN SALINE, CO

USE OF PROPERTY. The Property will be used for ☐ personal ☐ business ☐ agricultural ☐ _____ purposes.

SIGNATURES. Debtor agrees to the terms on pages 1 and 2 of this Agreement and acknowledges receipt of a copy of this Agreement	SECURED PARTY
<p style="text-align: center;">DEBTOR</p> <p>GOLDEN EAGLE ESTATES LTD</p> <p><i>[Signature]</i></p> <p>DANIEL H. HOWISON STOCKHOLDER</p> <p><i>[Signature]</i></p> <p>MELINDA S. HOWISON MELINDA S. HOWISON</p>	<p style="text-align: center;">SECURED PARTY</p> <p>CENTRAL NATIONAL BANK</p> <p><i>[Signature]</i></p> <p>MARLY G. BROWN PRESIDENT</p>

GENERAL PROVISIONS. Each Debtor's obligations under this Agreement are independent of the obligations of any other Debtor. Secured Party may sue each Debtor individually or together with any other Debtor. Secured Party may release any part of the Property and Debtor will remain obligated under this Agreement. The duties and benefits of this Agreement will bind the successors and assigns of Debtor and Secured Party. No modification of this Agreement is effective unless made in writing and signed by Debtor and Secured Party. Whenever used, the plural includes the singular and the singular includes the plural. Time is of the essence.

APPLICABLE LAW. This Agreement is governed by the laws of the state in which Secured Party is located. In the event of a dispute, the exclusive forum, venue, and place of jurisdiction will be the state in which Secured Party is located, unless otherwise required by law. If any provision of this Agreement is unenforceable by law, the unenforceable provision will be severed and the remaining provisions will still be enforceable.

NAME AND LOCATION. Debtor's name indicated on page 1 is Debtor's exact legal name. If Debtor is an individual, Debtor's address is Debtor's principal residence. If Debtor is not an individual, Debtor's address is the location of Debtor's chief executive offices or sole place of business. If Debtor is an entity organized and registered under state law, Debtor has provided Debtor's state of registration on page 1. Debtor will provide verification of registration and location upon Secured Party's request. Debtor will provide Secured Party with at least 30 days' notice prior to any change in Debtor's name, address, or state of organization or registration.

WARRANTIES AND REPRESENTATIONS. Debtor has the right, authority, and power to enter into this Agreement. The execution and delivery of this Agreement will not violate any agreement governing Debtor or Debtor's property, or to which Debtor is a party. Debtor makes the following warranties and representations which continue as long as this Agreement is in effect:

- (1) Debtor is duly organized and validly existing in all jurisdictions in which Debtor does business;
- (2) the execution and performance of the terms of this Agreement have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law or order;
- (3) other than previously disclosed to Secured Party, Debtor has not changed Debtor's name or principal place of business within the last 10 years and has not used any other trade or fictitious name; and
- (4) Debtor does not and will not use any other name without Secured Party's prior written consent.

Debtor consents all of the Property, and Secured Party's claim to the Property is ahead of the claims of any other creditor, except as otherwise agreed and disclosed to Secured Party prior to any advance on the Secured Debt. The Property has not been used for any purpose that would violate any law or subject the Property to forfeiture or seizure.

DUTIES TOWARD PROPERTY. Debtor will protect the Property and Secured Party's interest against any competing claim. Except as otherwise agreed, Debtor will keep the Property in Debtor's possession at the address indicated on page 1 of this Agreement. Debtor will keep the Property in good repair and use the Property only for purposes specified on page 1. Debtor will not use the Property in violation of any law and will pay all taxes and assessments levied or assessed against the Property. Secured Party has the right of reasonable access to inspect the Property, including the right to require Debtor to assemble and make the Property available to Secured Party. Debtor will immediately notify Secured Party of any loss or damage to the Property. Debtor will prepare and keep books, records, and accounts about the Property and Debtor's business, to which Debtor will allow Secured Party reasonable access. Debtor will not sell, offer to sell, lease, or otherwise transfer or encumber the Property without Secured Party's prior written consent. Any disposition of the Property will violate Secured Party's rights, unless the Property is inventory sold in the ordinary course of business at fair market value. If the Property includes chattel paper or instruments, either as original collateral or as proceeds of the Property, Debtor will record Secured Party's interest on the face of the chattel paper or instruments.

If the Property includes accounts, Debtor will not settle any account for less than the full value, dispose of the accounts by assignment, or make any material change in the terms of any account without Secured Party's prior written consent. Debtor will collect all accounts in the ordinary course of business, unless otherwise required by Secured Party. Debtor will keep the proceeds of the accounts, and any goods returned to Debtor, in trust for Secured Party and will not commingle the proceeds or returned goods with any of Debtor's other property. Secured Party has the right to require Debtor to pay Secured Party the full price of any returned goods. Secured Party may require account debitors to make payments under the accounts directly to Secured Party. Debtor will deliver the accounts to Secured Party at Secured Party's request. Debtor will give Secured Party all statements, reports, certificates, lists of account debitors (showing names, addresses, and amounts owing), invoices applicable to each account, and any other data pertaining to the accounts at Secured Party's request.

If the Property includes farm products, Debtor will provide Secured Party with a list of the buyers, commission merchants, and selling agents to or through whom Debtor may sell the farm products. Debtor authorizes Secured Party to notify any additional parties regarding Secured Party's interest in Debtor's farm products, unless prohibited by law. Debtor agrees to plant, cultivate, and harvest crops in due season. Debtor will be in default if any loan proceeds are used for a purpose that will contribute to extensive erosion of highly erodible land or to the conversion of wetland to produce or to make possible the production of an agricultural commodity, further explained in 7 CFR Part 1940, Subpart C, 1-3(h)(1) M. If Debtor pledges the Property to Secured Party (delivers the Property into the possession or control of Secured Party or a designated third party), Debtor will, upon receipt, deliver any proceeds and products of the Property to Secured Party. Debtor will provide Secured Party with any notices, documents, financial statements, reports, and other information relating to the Property Debtor receives as the owner of the Property.

PERFECTION OF SECURITY INTEREST. Debtor authorizes Secured Party to file a financing statement covering the Property. Debtor will comply with, facilitate, and otherwise assist Secured Party in connection with obtaining possession or control over the Property for purposes of perfecting Secured Party's interest under the Uniform Commercial Code.

INSURANCE. Debtor agrees to keep the Property insured against the risks reasonably associated with the Property until the Property is released from this Agreement. Debtor will maintain this insurance in the amounts Secured Party requires. Debtor may choose the insurance company, subject to Secured Party's approval, which will not be unreasonably withheld. Debtor will have the insurance provider name Secured Party as loss payee on the insurance policy. Debtor will give Secured Party and the insurance provider immediate notice of any loss. Secured Party may apply the insurance proceeds toward the Secured Debt. Secured Party may require additional security as a condition of permitting any insurance proceeds to be used to repair or replace the Property. If Secured Party acquires the Property in damaged condition, Debtor's rights to any insurance policies and proceeds will pass to Secured Party to the extent of the Secured Debt. Debtor will immediately notify Secured Party of the cancellation or termination of insurance. If Debtor fails to keep the Property insured, or fails to provide Secured Party with proof of insurance, Secured Party may obtain insurance to protect Secured Party's interest in the Property. The insurance may include coverages not originally requested of Debtor, may be written by a company other than one Debtor would choose, and may be written at a higher rate than Debtor could obtain if Debtor purchased the insurance.

AUTHORITY TO PERFORM. Debtor authorizes Secured Party to do anything Secured Party deems reasonably necessary to protect the Property and Secured Party's interest in the Property. If Debtor fails to perform any of Debtor's duties under this Agreement, Secured Party is authorized, without notice to Debtor, to perform the duties or cause them to be performed. These authorizations include, but are not limited to, permission to pay for the repair, maintenance, and preservation of the Property and take any action to realize the value of the Property. Secured Party's authority to perform for Debtor does not create an obligation to perform, and Secured Party's failure to perform will not preclude Secured Party from exercising any other rights under the law or this Agreement. If Secured Party performs for Debtor, Secured Party will use reasonable care. Reasonable care will not include any steps necessary to preserve rights against prior parties or any duty to take action in connection with the management of the Property.

If Secured Party acquires possession of the Property, Secured Party will preserve and protect the Property to the extent required by law. Secured Party's duty of care with respect to the Property will be satisfied if Secured Party exercises its reasonable care in the safekeeping of the Property or in the selection of a third party in possession of the Property.

Secured Party may enforce the obligations of an account debtor or other person obligated on the Property. Secured Party may exercise Debtor's rights with respect to the account debtor's or other person's obligations to make payment or otherwise tender performance to Debtor, and enforce any security interest that secures such obligations.

PURCHASE MONEY SECURITY INTEREST. If the Property includes items purchased with the Secured Debt, the Property purchased with the Secured Debt will remain subject to Secured Party's security interest until the Secured Debt is paid in full. Payments on any non-purchase money loan also secured by this Agreement will not be applied to the purchase money loan. Payments on the purchase money loan will be applied first to the non-purchase money portion of the loan, if any, and then to the purchase money portion in the order in which the purchase money Property was acquired. If the purchase money Property was acquired at the same time, payments will be applied in the order Secured Party selects. No security interest will be terminated by application of this formula.

DEFAULT. Debtor will be in default if:

- (1) Debtor (or Borrower, if not the same) fails to make a payment on full when due;
 - (2) Debtor fails to perform any condition or keep any covenant on this or any debt or agreement Debtor has with Secured Party;
 - (3) a default occurs under the terms of any instrument or agreement evidencing or pertaining to the Secured Debt;
 - (4) anything else happens that either causes Secured Party to reasonably believe that Secured Party will have difficulty in collecting the Secured Debt or significantly impairs the value of the Property.
- REMEDIES.** After Debtor defaults, and after Secured Party gives any legally required notice and opportunity to cure the default, Secured Party may at Secured Party's option do any one or more of the following:
- (1) make all or any part of the Secured Debt immediately due and accrue interest at the higher post-nancy interest rate;
 - (2) require Debtor to gather the Property and make it available to Secured Party at a reasonable location;
 - (3) enter upon Debtor's premises and take possession of all or any part of Debtor's property for purposes of preserving the Property or its value and use and operate Debtor's property to protect Secured Party's interest, all without payment or compensation to Debtor;
 - (4) use any remedy allowed by state or federal law, or provided in any agreement evidencing or pertaining to the Secured Debt.

If Secured Party repossesses the Property or enforces the obligations of an account debtor, Secured Party may keep or dispose of the Property as provided by law. Secured Party will apply the proceeds of any collection or disposition first to Secured Party's expenses of enforcement, which includes reasonable attorney's fees and legal expenses to the extent not prohibited by law, and then to the Secured Debt. Debtor (or Borrower, if not the same) will be liable for the deficiency, if any. By choosing any one or more of these remedies, Secured Party does not give up the right to use any other remedy. Secured Party does not waive a default by not using a remedy.

WAIVER. Debtor waives all claims for damages caused by Secured Party's acts or omissions where Secured Party acts in good faith.

NOTICE AND ADDITIONAL DOCUMENTS. Where notice is required, Debtor agrees that 10 days' prior written notice will be reasonable notice to Debtor under the Uniform Commercial Code. Notice to one party is notice to all parties. Debtor agrees to sign, deliver, and file any additional documents and certifications Secured Party considers necessary to perfect, maintain or preserve Debtor's obligations under this Agreement and to confirm Secured Party's lien status on the Property.

ATTACHMENT 4

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Received
on

FEB 08 2012

by
State Corporation Commission
of Kansas

In the Matter of the Application of Howison
Heights, Inc. for Approval of Certain
Changes in its Charges for Water Service.

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Docket No. 12-HHIW-382-RTS

Notice of Filing of Staff's Report and Recommendation

COMES NOW, the Staff of the State Corporation Commission of the State of Kansas
("Staff" and "Commission" respectively) and hereby files its Report and Recommendation in the
above captioned docket, attached as "Attachment A" and hereby incorporated by reference.

WHEREFORE, Staff respectfully submits its Report and Recommendation to the
Commission for consideration.

Respectfully Submitted,



Matthew A. Spurgin, #20470
Litigation Counsel
Holly Fisher, #24023
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Rd.
Topeka, KS 66604
785-271-3110
785-271-3167 fax
m.spurgin@kcc.ks.gov
h.fisher@kcc.ks.gov
Attorneys for Commission Staff

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

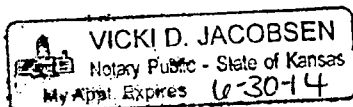
VERIFICATION

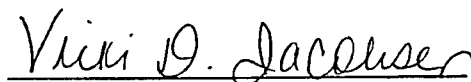
Matthew A. Spurgin, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Report and Recommendation* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



Matthew A. Spurgin, # 20470
Kansas Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 8th day of February, 2012.




Notary Public

My Appointment Expires: 6-30-14

ATTACHMENT "A"

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Mark Sievers, Chairman
Ward Loyd, Commissioner
Thomas E. Wright, Commissioner

Sam Brownback, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairman Mark Sievers
Commissioner Ward Loyd
Commissioner Thomas E. Wright

FROM: Bill Baldry, John Bell, Jaime Stamatson, and Laura Bowman

DATE: February 6, 2012

DATE SUBMITTED TO EXECUTIVE DIRECTOR: 2/8/12

DATE SUBMITTED TO LEGAL: 2/8/12

DATE SUBMITTED TO COMMISSIONERS: _____

SUBJECT: In the Matter of the Application of Howison Heights, Inc., for Approval of
Certain Changes in its Charges for Water Service; Docket No. 12-HHIW-382-RTS

EXECUTIVE SUMMARY:

In its Application filed on November 22, 2011, Howison Heights, Inc. requested a \$41,652 increase in its revenues. Staff has calculated a Revenue Requirement of \$20,981 pursuant to its investigation and audit. This report addresses Staff concerns regarding Howison Height's current financial condition, its record keeping practices, and includes a list of recommendations that will improve the effectiveness of the Company's future operations and financial reporting.

BACKGROUND:

On November 22, 2011, Howison Heights, Inc. ("Howison", "Applicant" or "Company") filed an Application to make certain changes in its charges for water service. Howison is a small company, serving 62 customers in a small geographic area in Saline County, Kansas. Howison's total revenues were \$38,463 for the Test Year ending December 31, 2010. The Applicant is

requesting a rate increase of \$41,652 in annual revenues, or a 108% increase. On January 10, 2012 and January 13, 2012, Commission Staff and the Citizens' Utility Ratepayer Board (CURB) submitted motions to proceed under K.A.R. 82-1-231b and to waive certain procedural regulations, respectively. On January 18, 2012, the Commission granted permission to proceed under K.A.R. 82-1-231b and waived the requirement of K.A.R. 82-1-231b(b)(2)(C) regarding a public meeting. Howison received its certificate of convenience on September 26, 2005, in Docket No. 05-HHIW-277-COC. The Application filed with the Commission on November 22, 2011 is the Company's first rate case with the Commission, since receiving its certificate. This rate case is Howison's second rate increase since its inception in 1971.

History of Howison Heights, Inc.

In 1971, Charles Howison purchased 160 acres plus $\frac{1}{4}$ acre approximately three miles north of I-70 just west of Ohio Street in Salina, Kansas for the purpose of developing the land.¹ At the time of purchase, the land did not have any water accessible to accommodate the newly developed homes.² As a result, Mr. Howison drilled and began pumping water for the new homes located in the Saline River Basin. Mr. Howison continued to purchase various small parcels of land totaling 60 acres between 1971 and 1978.

In 1984, Charles Howison retired from the land development and water business, and sold the water company to his son Tim Howison (current owner of Howison Heights, Inc.). Between 2004 and 2006, Tim Howison purchased an additional 320 acres, called Big Valley, just north and east of the land his father had purchased in the 1970's in an effort to expand both the current residential development area and the water company.³ Mr. Howison has continued to drill wells on the newly purchased acreage, and has found large quantities of water in the Dakota Formation.⁴ While Mr. Howison has the capacity needed to supply wholesale customers, he is only selling water on a retail basis to the 62 customers located in the development area.

¹ The 160 acres Mr. Howison purchased is located about $\frac{3}{4}$ th of a mile north of the Saline River.

² The older development was built in the early 1970's.

³ The lot sizes of the Applicant's customers range from as small as one acre up to 24 acres with most lots in the 3 acre to 5 acre range.

⁴ The water in the Dakota Formation is much softer water than the water pumped in the wells from the land purchased in 1971. The current cost to drill a water well 110 feet deep with a five inch diameter, and to install the well's casing and properly grout the well (which is required by State of Kansas regulations) would be approximately \$3,000 in Saline County. The \$3,000 cost excludes other costs the drilling of a well may incur such as the cost of the

Currently, Howison Heights has three water wells, with depths of 75 feet, 118 feet, and 133 feet. Each well has an average of 68 feet of water that can be pumped to meet the customer's water needs. At this time, Mr. Howison has enough water capacity to supply all of his customers' needs by using only two of the three wells. However, due to the financial constraints of the Company the Applicant does not have sufficient funds to install a water storage tank. As a result, Mr. Howison only pumps water to its customers as it is needed.⁵

Howison Heights, Inc. Financial Condition

Howison Heights uses the cash method to record its revenues and expenses, except for depreciation expense. Under the cash method, Howison experiences the following:

- Revenues: Howison recognizes revenue as earned when the Company receives cash from its customers. Howison does not have difficulty in collecting water payments from its customers, so there is little lag time between the beginning of the calendar month, when Howison bills its customers, and when the Company actually receives payment from its customers.
- Expenses: Howison recognizes an expense when the Company pays the expense. During Staff's on-site visit it became obvious that the Company has an extensive history of paying expenses late, sometimes as much as several years (as in the case of paying its property taxes). If a Company does not pay a regular recurring expense (such as property taxes) for several years, the cash method will not accurately reflect the activity of a particular year because expenses are understated in the years no payment is made and expenses are overstated in the year when multiple years of expenses are paid.
- Depreciation: Howison Heights uses accelerated depreciation methods based on income tax law to recognize depreciation expense on the Company's property, plant and equipment.

Staff's audit also discovered that Mr. Howison does not deposit all payments received for water sales exclusively in the Howison Heights, Inc. checking account, and that Mr. Howison does not

permit to drill, disposal of saltwater, drilling through thick rock formations, well collapse due to sand formations, drilling a larger diameter well, etc.

⁵ The Applicant does own a 90,000 gallon standpipe that was purchased in 1995, but due to the financial condition of the Company, Mr. Howison does not have the funds needed to install the standpipe.

pay the water companies expenses exclusively from the Howison Heights, Inc. checking account.

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Staff was able to trace some of the expenses reported in the Company's income statement (Exhibit No. 7 in the Application) to original documents and invoices, but a sizable percentage of reported expenses had no support. Mr. Howison stated several times during Staff's two on-site visits that he provided all of the Company's receipts and invoices to the public accounting firm to record in the Applicant's general ledger, but that Mr. Howison did not receive all of the documents back for the year 2010. Also, the employee at the public accounting firm who was responsible for recording Mr. Howison's expenses recently left the firm, so Staff was not able to determine what had happened and who was responsible for the missing documents.

Howison Heights is in dire financial condition. The Company's debt of \$315,244⁷ far exceeds the Company's net property, plant and equipment of \$95,110. The Company has incurred operating losses so large over the years that the retained earnings account has a negative balance. The negative retained earnings balance of \$280,575 overwhelms the positive balances in the Company's common stock and paid in capital and results in a negative equity balance of \$239,269. Since Howison Heights has an overall negative equity balance, the Company has had to rely on bank loans to finance its continuing operating losses. Additionally, the Company's revenues of \$38,463 are less than half of its \$80,116 of expenses for 2010 as shown in Schedule B-1, Column A of WEB Exhibit No. 1.

Mr. Howison's dire financial condition is also evident in the fact that multiple payments are deferred on various items due to a lack of cash. Mr. Howison was four years behind in paying the Company's property taxes prior to 2010. In 2010, Mr. Howison was able to pay Saline County all of the back taxes and penalties the Company owed due to an inheritance. Currently, Mr. Howison is behind in paying his public accountant for financial reporting and income tax preparation services rendered during 2010. Additionally, Mr. Howison is frequently unable to pay for repair and maintenance services on the water system at the time the services are rendered and attempts to sell undeveloped land to pay the Company's debts when possible.

⁶ Staff's audit showed that several deposits for payment(s) received from the sales of water were deposited in a non-Howison Heights, Inc. checking accounts. Additionally, Mr. Howison used a checking account other than the Applicant's to pay some of the Applicant's operating expenses during the Test Year.

⁷ Source: Exhibit No. 5 in the Application

If Mr. Howison were able to install a standpipe the financial and operating condition of the water company would improve in several ways. An operating standpipe would reduce the wear and tear on the system's water pumps, extend the life of the water pumps, and provide increased fire protection and water pressure. The standpipe has been lying on the ground for 16 years because Mr. Howison does not have the funds necessary to install it.

Monthly Water Bill Comparison

Howison's 62 customers use an average of 8,000 gallons each month. Based on an 8,000 gallon usage, the following table compares Howison's current and proposed rates to neighboring Ottawa #2 Rural Water District, and the City of Salina's water rates. Please note, the amount shown in the table below for the City of Salina includes a monthly meter charge of \$4.74, a customer charge of \$6.77 for waste water, and a \$36.88 charge for waste water based on volume.

Usage in Gallons	Howison Current Rates	Howison Proposed Rates	Ottawa #2 Rural Water District	City of Salina
8,000	\$41.00	\$80.26	\$63.26	\$79.43

ANALYSIS:

Staff's accounting schedules, which summarize the results of Staff's review of the Applicant's revenue requirement request, are attached to this memo as WEB Exhibit No. 1, which consists of schedules that summarize Staff's findings with regard to Howison's operating income (see Schedules B-1 through B-3). Staff's proposed revenue requirement results in a revenue increase of \$20,981 (Schedule Rev Req, Line 7).

Operating Margins

Staff's findings with regard to operating margins are summarized on Staff Schedule B-1 of WEB Exhibit No. 1. The Test Year actual net operating margin of (\$41,653) is shown on line 24,

columns A and C of Schedule B-1. Mr. Howison's application relied on test year amounts and therefore did not contain any pro forma adjustments to the Test Year.⁸

Exhibit No. 8 in the Application was used to calculate the Company's revenue deficiency, and is shown in Column A of Staff Schedule B-1. Exhibit No. 7 provides a breakdown of Howison's expenses based on a two and four year average and can be compared to the 2010 actual expenses. The detail of 2010 Income can be found in Exhibit No. 6.

Due to the large volume of missing information, Staff has relied on several different types of information. If available, Staff relied on actual invoices or statements. If a cost was not supported, Staff then relied on a combination of invoices and/or general ledger entries. Since Howison's general ledger detail is prepared by an external accounting firm, Staff believes the information can be relied upon for setting an appropriate level of expense.

Staff has reviewed Howison Heights' Application and is recommending the following Income Statement adjustments:

Staff Adjustment No. 1

Staff Adjustment No. 1 increases water revenues by \$2,069. This adjustment increases water revenue to equal the amount billed to Howison's customers during the Test Year.

Staff Adjustment No. 2

Staff Adjustment No. 2 decreases revenue from meter hookups by \$8,400. The Company had three hookups in 2010 at \$4,200 per hookup that resulted in hookup revenue of \$12,600, but no hookups were made to its water system in 2011. Based on current economic conditions, Staff believes it is unlikely that the Company will have three hookups every year on a going forward basis, but it is also unlikely that the Company would have no hookups in the future. As a result, Staff has reflected one water hookup fee in the cost of service calculation as it is reasonable to assume that the Company would have at least one hookup per year in the future. As a result, Staff's Adjustment reduces hookup fees by \$8,400 (or two hookups) to reflect the revenues for one meter hookup per year.

⁸ Please note that Exhibit No. 7 in the Application reports expenses paid during the Test Year and matches the amounts recorded in the general ledger, except for supplies expense. Staff could not find a source document for supplies expense.

Staff Adjustment No. 3

Staff Adjustment No. 3 increases auto expense by \$2,151. The Applicant's auto expense only reflects fuel expense for trips to Howison Heights for water activity purposes. Staff believes Howison has understated auto expenses by omitting repairs, maintenance, and depreciation expense on the Applicant's vehicle. Without receipts for actual maintenance and a mileage log, Staff has estimated Howison's auto expense by taking the standard business mileage the Internal Revenue Service has allowed for 2010 and multiplied it by the estimated miles driven. Staff then added the actual diesel fuel expense Howison incurred for running the backhoe, which is used for water business purposes only, in calculating an annualized level of auto expense. As a result, Staff's adjustment represents a more accurate reflection of auto expenses Mr. Howison incurred for water company business during 2010.

Staff Adjustment No. 4

Staff Adjustment No. 4 decreases bank fees by \$367. The Applicant incurred several bank overdraft and late fees during 2010, and included those fees as an expense in the Application. Overdraft and late fees are expenses that can be avoided by using good cash management practices, and should not be recovered through base rates. Therefore, Staff's adjustment removes the overdraft and late fees from the Applicant's operating expenses.

Staff Adjustment No. 5

Staff Adjustment No. 5 increases contract labor by \$3,427. Howison's Application includes a four year average of contract labor expense in Exhibit No. 8. Staff reviewed the contract labor expense account in the Applicant's general ledger, and determined that the amount in the general ledger is a more accurate reflection of the contract labor expense that is likely to be incurred on a going forward basis. Therefore, Staff recommends an adjustment to reflect actual contract labor expenses paid during the test year.⁹

Staff Adjustment No. 6

Staff Adjustment No. 6 decreases depreciation expense by \$330. The depreciation expense reported in the Application is based on the accelerated depreciation method, which is allowed

⁹ Exhibit No. 7 in the Application reports the Contract Labor expense recorded in the general ledger for the Test Year.

under the Internal Revenue Code. Staff's adjustment re-calculates Howison's depreciation expense on the straight line depreciation method and adjusts the useful life of the equipment. Staff's adjustment is consistent with other utilities in using straight line depreciation method to calculate a utility's depreciation expense. Additionally, Staff's proposed depreciation rates are consistent with the Commission approved depreciation rates as described in the 07-SUBW-1352-RTS, Suburban Water rate case. The only exception is with the water pumps, which Staff is requesting a depreciation rate based on a five year useful life. Water pumps normally last about 10 years, provided the water company has a water tank or a standpipe. If a company has a water storage facility, the pump can act as designed by pumping for an extended period of time and then shutting off for an extended period of time. Since the Company does not have a water storage facility, the water pump turns on and off for short periods of time as consumers use the water throughout the day. If a water pump turns on and off many times during the day, the water pump will not last as long as it would under normal conditions. Staff's proposal to use a five year life for water pumps is based on actual Company experience.

Staff Adjustment No. 7

Staff Adjustment No. 7 decreases interest expense by \$35,469. The amount of interest expense reported in Exhibit No. 8 of the Application includes principal and interest payments based on new loans that were refinanced in December 2011. Staff's adjustment only reflects an annual level of interest expense and is comprised of the following adjustments:

- A typical utility will borrow money and use stockholders' equity to buy property, plant, and equipment to replace old and worn out equipment as well as to buy new equipment. The utility receives the return of its investment in property, plant, and equipment through depreciation expense. Since depreciation expense is a component of a utility's rates, Howison's customers are providing the funds necessary to repay the Company's capital investments. Since depreciation expense includes the reimbursement of capital investment, it is only proper to exclude principal payments for outstanding loans from interest expense.

- The Applicant's total debt in Exhibit No. 4 (the public accountant's prepared Statement of Assets, Liabilities and Equity) totals \$325,870.¹⁰ The Applicant's Net Property, Plant and Equipment (also shown in Exhibit No. 4) totals only \$95,110. Because the loan balances exceeded Howison's Net Property, Plant and Equipment, Staff can only speculate what the Applicant spent the money on besides buying property, plant and equipment. Since Staff could not trace what the loan proceeds were used to purchase, Staff's adjustment limits the debt portion in calculating interest expense to the balance of Net Property, Plant and Equipment reported in the Application.
- The Applicant has two loans outstanding with Bennington State Bank and one loan outstanding with Central National Bank. The interest rate on the loan at Central Nation Bank differs from the interest rate on the loans at Bennington State Bank, so Staff calculated an interest rate based on a weighted average for the outstanding loan balances on each bank's loans. Staff's adjustment calculates interest expense by multiplying the weighted interest rate by the Applicant's Net Property, Plant and Equipment. Due to the negative stockholder's equity reflected on the balance sheet, Staff is assuming the Applicant purchased all of its property, plant and equipment using borrowed money so no allocation was made in assuming the Applicant used stockholder's equity in equipment purchases.

Staff Adjustment No. 8

Staff Adjustment No. 8 increases legal and accounting expense by \$65. The expense shown in the Application is based on the amount paid during the Test Year, rather than the amount incurred. Staff's adjustment is necessary to reflect the amount of accounting services incurred (rather than paid) during the Test Year.

¹⁰ Due to the lack of information and record keeping, Staff was not able to trace what the various loan proceeds were used to purchase over the years.

Staff Adjustment No. 9

Staff Adjustment No. 9 decreases mowing expense by \$100. The Applicant was not able to provide documentation for mowing expense reported in the Application. Staff's adjustment reflects the level of mowing expense as reported in the general ledger.¹¹

Staff Adjustment No. 10

Staff Adjustment No. 10 decreases permits and fees expense by \$979. The permits and fees expense in the Application includes a late payment fee related to the Applicant's property taxes. Ratepayers should not be responsible for fees the Company could avoid through good management practices; therefore, Staff's adjustment removes the late payment fee from the Applicant's expenses.

Staff Adjustment No. 11

Staff Adjustment No. 11 increases postage expense by \$323 to recognize the monthly water billings the Company mails to its customers each month that were not reflected in the Company's Application.

Staff Adjustment No. 12

Staff Adjustment No. 12 decreases repairs and maintenance expense by \$85. As mentioned above, Staff believes the Company's general ledger is a fairly accurate reflection of the Company's expenses paid during the Test Year. The Applicant was not able to provide documentation for all of the repairs and maintenance expense reported in the Application, therefore, Staff's adjustment reflects the amount of repairs and maintenance expense as reported in the general ledger.

Staff Adjustment No. 13

Staff Adjustment No. 13 increases supplies expense by \$646. The Applicant was not able to provide documentation to support all of the supplies expense reported in the Application. Staff's adjustment reflects the level of supplies expense that was reported in the general ledger.

¹¹ The Applicant gives all of the Company's documents, bills, and invoices to its public accounting firm. An employee of the accounting firm posts the bills and invoices into the Applicant's general ledger, so Staff believes the general ledger is a fairly accurate reflection of Company expenses that were paid during the Test Year.

Staff Adjustment No. 14

Staff Adjustment No. 14 decreases utility property tax expense by \$1,322. The amount of property tax reported in Exhibit No. 8 of the Application represents a two year average of property tax that the Company paid to Saline County. Staff's adjustment contains the following items:

- First Component – Staff reduced the Company's property tax by \$2,495 to equal the actual amount of property taxes Howison owed Saline County for 2011. This adjustment removes multiple years of property taxes paid in 2010, and also removes penalty assessments for non-payment of property taxes for previous years.
- Second Component – Staff increased the Company's property tax by \$279 for Saline County sales tax the Company owes for retail water sales made to its customers during the Test Year. The Company excluded the sales tax owed to Saline County for water sales during the Test Year from its Application. This adjustment reflects the appropriate level of sales tax expense the Company should incur on a going forward basis.
- Third Component – Staff increased the Company's property tax by \$894 for the water protection fee the Company owes the State of Kansas for water sales made to its customers during the Test Year. The Company excluded the water protection fee from its Application, so this adjustment must be made to include the fee in the Company's expenses.

Staff Adjustment No. 15

Staff Adjustment No. 15 increases the expense for utilities by \$210. The utilities expense reported in the Company's Application is based on the amount of utility expense the Company paid during the Test Year, rather than the actual amount of utility expense incurred. Staff's adjustment reflects the actual dollar amount of utility expense incurred during the Test Year.

Staff Adjustment No. 16

Staff Adjustment No. 16 increases donation expense by \$85. The Company did not include the donations it made to various charitable organizations during the Test Year. Staff's Adjustment reflects one-half of the contributions the Company made during the Test Year, which is consistent with K.S.A 66-101(f).

Staff Adjustment No. 17

Staff Adjustment No. 17 increases income tax expense by \$712. This adjustment is composed of an increase in state income tax of \$155 and federal income tax of \$557. This adjustment reflects the increase in federal and state income taxes related to Staff's calculation of Howison Heights' profit margin using the operating margin approach.

Operating Margin

Schedule Rev Req of Staff Schedules bases the revenue requirement on an 8% operating margin for Howison Heights.

RATE DESIGN ANALYSIS:

Howison's proposed rate design, shown in figure 11 of the Application, is intended to raise annual revenues of \$55,584. However, Staff has found several errors in its calculations. Multiple customers are charged nothing when zero usage occurs, but under the proposed rates these customers should receive a charge of \$40 regardless of whether or not they used any water. Also, there are errors calculating volumetric charges. Correcting these errors results in annual revenues of \$56,328.

Staff calculates a total operating expense of \$48,371. Adjusting this number by the addition of income taxes in the amount of \$873, the subtraction of one meter hookup fee of \$4,200, and adding in required operator margin of \$3,870 yields yearly revenues of \$48,914, required to be recovered through the sales of water. Staff's proposed rate design achieves this through both a fixed monthly charge independent of usage and a volumetric charge. The following table illustrates Staff's proposed rate design along with Howison's proposed rate design for comparison.

	Staff	Howison
Fixed Charge	\$35	\$40
1,000-9,000 gallons	\$4.032	\$5.032
10,000-16,000 gallons	\$3.032	\$4.032
17,000- 25,000 gallons	\$3.032	\$3.032
Over 25,000 gallons	\$3.382	\$2.382
Revenues	\$48, 935	\$56,328

RECOMMENDATION:

Howison Heights, Inc. is a small water utility company serving only 62 customers with less than \$40,000 in annual revenue. This docket is the Company's first rate case with the Kansas Corporation Commission. To improve the deficiencies Staff discovered during its audit in the rate case and to ensure customers continue receiving a sufficient water supply, Staff recommends the following:

- Mr. Howison shall file a report within nine months of the Commission's Order that includes the following:
 - a. Long Term Plan – Mr. Howison shall prepare a long term plan that outlines his intentions for the water company for the next five years. Additionally, Mr. Howison should prepare a plan that provides the water company with a sound financial footing as well as describes how he plans to build equity.
 - b. Succession Plan - Mr. Howison shall develop a plan that discusses who will take over operating the water system upon his retirement.
 - c. Create a plan that discusses Mr. Howison's intentions if Howison Heights, Inc. should go bankrupt in the future. The bankruptcy plan shall discuss the various alternatives of how water can continue to be provided to its customers while the Company is in bankruptcy.

- Rate Case Filing - Howison Heights, Inc. shall schedule a meeting with KCC Staff no later than May 1, 2012 to review the water companies revenues and expenses.
- Checking Account - Howison Heights, Inc. shall maintain a checking account that is used exclusively for water operations.
- Revenues - All money received from the Company's water customers shall be deposited in the Howison Heights, Inc. checking account.
- Expenses - All Company expenses shall be paid out of the Howison Heights, Inc. checking account.
- Transfers of Money – Whenever Mr. Howison transfers money to or from Howison Heights, Inc., Mr. Howison shall either write a check or create a note receivable or note payable (whichever applies in the transaction) to document the transfer of money.
- Cash Payments – If Mr. Howison makes a cash or check payment to someone for work performed on the water system, Mr. Howison will create a receipt for the payment identifying what service was performed, the date paid, and the dollar amount. The payment then needs to be recorded in the Howison Heights, Inc. general ledger.
- Discounts – If Mr. Howison grants a discount to a customer's water bill for services the customer performed for the benefit of the water system, Mr. Howison shall prepare a receipt for the value of the services the customer provided. Mr. Howison shall record revenue billed to the customer at its full amount, and record the discount as an expense in the appropriate expense account that reflects the kind of service the customer performed.
- Property Insurance – Mr. Howison shall purchase property liability insurance for Howison Heights, Inc. water operations.
- Maintenance of Records – Mr. Howison shall create and maintain a file folder for the Company's revenues, and a separate file folder for each expense item shown on Staff Schedule B-1. The revenue folder will contain each month's customer billings for the calendar year. The expense folders will contain invoices of the various expenses based on when the expense was incurred (not paid) for products purchased and services rendered to the Company during the calendar year. The revenue worksheets and expense invoices

will be placed in the appropriate calendar year's folders based on the year the water was sold and the expenses incurred. The Company will not place revenues and expenses in file folders based on when the Company receives money from its customers nor the year the Company paid for purchases or services rendered. Mr. Howison shall create new file folders for the Company's revenues and expenses for each future calendar year.

- Quarterly Review – Staff shall review Mr. Howison's maintenance of records at the end of each quarter in 2012 or until Mr. Howison demonstrates that the maintenance of records process is working. Based on Staff's experience with Mr. Howison, Staff believes the time Staff spends on reviewing Mr. Howison's establishment and maintenance of the water company's records every quarter would make the next audit more accurate, more complete, and more efficient.
- Auto Expense - Mr. Howison shall write down the Company's truck's odometer reading on January 1st of each year.
- Auto Expense - Mr. Howison shall keep a written log of the trips he makes to the Company's certificated area and for other water related business. The log shall include the date of each trip to the certificated area. For all other water related trips, the log shall include the date, miles driven, and business purpose.
- Property, Plant and Equipment – Staff shall create a property, plant and equipment template for the Company. Mr. Howison will use Staff's template to input and maintain a schedule of property, plant and equipment for Company equipment purchases after January 1, 2012. The schedule shall contain the following information for each purchase:
 - a. Description of the equipment purchased or service performed if the service is capitalized
 - b. Month and year the equipment (or service performed) was placed in service
 - c. Original cost of the equipment or service
 - d. Estimated life of the equipment used for depreciation purposes. The Company will refer to Staff's depreciation schedule prepared in this docket to obtain the appropriate number of years in which to depreciate the new equipment.

e. Depreciation method

- Staff recommends that the Company be allowed to increase its revenue by \$20,981.

cc: Patrice Petersen-Klein, Executive Director

Jeff McClanahan, Chief of Accounting and Financial Analysis

Robert Glass, Chief of Economic Policy and Planning

WEB EXHIBIT NO. 1

In the Matter of the Application of)
Howison Heights, Inc., for Approval of the) DOCKET NO. 12-HHIW-382-RTS
Commission to Make Certain Changes in its)
Rates for Water Service)

SCHEDULES

PREPARED BY

STAFF

UTILITIES DIVISION

KANSAS CORPORATION COMMISSION

HOWISON HEIGHTS, INC.
DOCKET NO. 12-HHIW-382-RTS

WEB EXHIBIT NO. 1

INDEX

SCHEDULE
NUMBER

REV REQ

STAFF ADJUSTED REVENUE REQUIREMENT

B-1	STAFF ADJUSTED AND PRO FORMA OPERATING INCOME STATEMENT
B-2	STAFF ADJUSTMENTS TO APPLICANT ADJUSTED INCOME STATEMENT
B-3	EXPLANATION OF STAFF ADJUSTMENTS TO INCOME STATEMENT
B-4	STAFF ADJUSTED AND PRO FORMA CALCULATION OF TAXABLE INCOME

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2/6/2012

HOWISON HEIGHTS, INC.
STAFF REVENUE REQUIREMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS
SCHEDULE REV REQ
WEB EXHIBIT NO.1

LINE NO.	DESCRIPTION	STAFF ADJUSTED
*****	*****	*****
1	STAFF ADJUSTED TEST YEAR NET OPERATING EXPENSE	\$48,371
2	OPERATING MARGIN REQUIREMENT	<u>8.0%</u>
3	OPERATING MARGIN REQUIRED	3,870
4	STAFF ADJUSTED TEST YEAR OPERATING MARGINS	<u>(16,239)</u>
5	REVENUE INCREASE/(DECREASE) REQUIREMENT	20,108
6	GROSS UP FOR TAX EXPENSE	<u>873</u>
7	PROFORMA REVENUE REQUIREMENT INCREASE/(DECREASE)	<u><u>\$20,981</u></u>

HOWISON HEIGHTS, INC.
STAFF ADJUSTED AND PRO FORMA OPERATING INCOME STATEMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

LINE NO.	DESCRIPTION	A APPLICANT JURISDICTIONAL PER BOOKS	B APPLICANT TEST YEAR ADJUSTMENTS	C APPLICANT ADJUSTED TEST YEAR	D STAFF TEST YEAR ADJUSTMENTS	E STAFF ADJUSTED TEST YEAR	F STAFF PRO FORMA ADJUSTMENTS	G STAFF PRO FORMA TEST YEAR

<u>OPERATING REVENUES:</u>								
1	SALE OF WATER	\$25,863		\$25,863	\$2,069	\$27,932	\$20,108	\$48,040
2	HOOKUP FEES	12,600		12,600	(8,400)	4,200		4,200
3	TOTAL REVENUES	\$38,463	\$0	\$38,463	(\$6,331)	\$32,132	\$20,108	\$52,240
<u>OPERATING EXPENSES:</u>								
4	AUTO	\$674	\$0	\$674	\$2,151	\$2,825		\$2,825
5	BANK FEES	465	0	465	(367)	98		98
6	CONTRACT LABOR	4,139	0	4,139	3,427	7,566		7,566
7	DEPRECIATION EXPENSE	10,337	0	10,337	(330)	10,007		10,007
8	INTEREST EXPENSE	41,400	0	41,400	(35,469)	5,931		5,931
9	LEGAL AND ACCOUNTING	575		575	65	640		640
10	MOWING	300	0	300	(100)	200		200
11	PERMITS AND FEES	1,978	0	1,978	(979)	999		999
12	POSTAGE	300		300	323	623		623
13	REPAIRS AND MAINTENANCE	5,832	0	5,832	(85)	5,747		5,747
14	SUPPLIES	5,077	0	5,077	646	5,723		5,723
15	UTILITY PROPERTY TAXES	4,488	0	4,488	(1,322)	3,166		3,166
16	UTILITIES	4,551		4,551	210	4,761		4,761
17	DONATIONS			0	85	85		85
18	TOTAL OPERATING EXPENSES	\$80,116	\$0	\$80,116	(\$31,745)	\$48,371		\$48,371
19	ADDITIONAL REVENUE FOR TAXES			\$0		\$0	\$873	873
20	LESS: TAX EXPENSE							(712)
21	LESS: TAX EXPENSE GROSS UP							(161)
22	NET OPERATING INCOME	(\$41,653)	\$0	(\$41,653)	\$25,414	(\$16,239)	\$20,981	\$3,870

HOWISON HEIGHTS, INC.
STAFF ADJUSTMENTS TO APPLICANT ADJUSTED INCOME STATEMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS
SCHEDULE B - 2
WEB EXHIBIT NO. 1

LINE NO.	DESCRIPTION	A STAFF ADJUSTED TEST YEAR	B STAFF ADJUSTMENT NO. 1	C STAFF ADJUSTMENT NO. 2	D STAFF ADJUSTMENT NO. 3	E STAFF ADJUSTMENT NO. 4	F STAFF ADJUSTMENT NO. 5	G STAFF ADJUSTMENT NO. 6	H STAFF ADJUSTMENT NO. 7	I STAFF ADJUSTMENT NO. 8

	<u>OPERATING REVENUES:</u>									
1	SALE OF WATER	\$25,863	2,069							
2	HOOKUP FEES	12,600		(8,400)						
3	TOTAL REVENUES	\$38,463	2,069	(8,400)						
	<u>OPERATING EXPENSES:</u>									
4	AUTO	\$674			2,151					
5	BANK FEES	465				(367)				
6	CONTRACT LABOR	4,139					3,427			
7	DEPRECIATION EXPENSE	10,337								
8	INTEREST EXPENSE	41,400						(330)		
9	LEGAL AND ACCOUNTING	575							(35,469)	
10	MOWING	300								65
11	PERMITS AND FEES	1,978								
12	POSTAGE	300								
13	REPAIRS AND MAINTENANCE	5,832								
14	SUPPLIES	5,077								
15	UTILITY PROPERTY TAXES	4,488								
16	UTILITIES	4,551								
17	DONATIONS	0								
18	TOTAL OPERATING EXPENSES	\$80,116	\$0	\$0	\$2,151	(\$367)	\$3,427	(\$330)	(\$35,469)	\$65
19	TAXES OTHER THAN INCOME TAXES	0								
20	INCOME TAXES - CURRENT & DEFERRED	0								
21	NET OPERATING EXPENSES	\$80,116	\$0	\$0	\$2,151	(\$367)	\$3,427	(\$330)	(\$35,469)	\$65
22	NET OPERATING INCOME	(\$41,653)	\$2,069	(\$8,400)	(\$2,151)	\$367	(\$3,427)	\$330	\$35,469	(\$65)

HOWISON HEIGHTS, INC.
STAFF ADJUSTMENTS TO APPLICANT ADJUSTED INCOME STATEMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS
SCHEDULE B - 2
WEB EXHIBIT NO. 1

LINE NO.	DESCRIPTION	J STAFF ADJUSTMENT NO. 9	K STAFF ADJUSTMENT NO. 10	L STAFF ADJUSTMENT NO. 11	M STAFF ADJUSTMENT NO. 12	N STAFF ADJUSTMENT NO. 13	O STAFF ADJUSTMENT NO. 14	P STAFF ADJUSTMENT NO. 15	Q STAFF ADJUSTMENT NO. 16	R STAFF ADJUSTMENT NO. 17

	<u>OPERATING REVENUES:</u>									
1	SALE OF WATER									
2	HOOKUP FEES									
3	TOTAL REVENUES									
	<u>OPERATING EXPENSES:</u>									
4	AUTO									
5	BANK FEES									
6	CONTRACT LABOR									
7	DEPRECIATION EXPENSE									
8	INTEREST EXPENSE									
9	LEGAL AND ACCOUNTING									
10	MOWING	(100)								
11	PERMITS AND FEES		(979)							
12	POSTAGE			323						
13	REPAIRS AND MAINTENANCE				(85)					
14	SUPPLIES					646				
15	UTILITY PROPERTY TAXES						(1,322)			
16	UTILITIES							210		
17	DONATIONS								85	
18	TOTAL OPERATING EXPENSES	(\$100)	(\$979)	\$323	(\$85)	\$646	(\$1,322)	\$210	\$85	\$0
19	TAXES OTHER THAN INCOME TAXES									
20	INCOME TAXES - CURRENT & DEFERRED									712
21	NET OPERATING EXPENSES	(\$100)	(\$979)	\$323	(\$85)	\$646	(\$1,322)	\$210	\$85	\$712
22	NET OPERATING INCOME	\$100	\$979	(\$323)	\$85	(\$646)	\$1,322	(\$210)	(\$85)	(\$712)

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HOWISON HEIGHTS, INC.
STAFF ADJUSTMENTS TO APPLICANT ADJUSTED INCOME STATEMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS
SCHEDULE B - 2
WEB EXHIBIT NO. 1

LINE NO.	DESCRIPTION	S TOTAL ADJUSTMENTS	T STAFF ADJUSTED
*****	*****	*****	*****
	<u>OPERATING REVENUES:</u>		
1	SALE OF WATER	\$2,069	\$27,932
2	HOOKUP FEES	(\$8,400)	\$4,200
3	TOTAL REVENUES	(\$6,331)	\$32,132
	<u>OPERATING EXPENSES:</u>		
4	AUTO	\$2,151	\$2,825
5	BANK FEES	(\$367)	\$98
6	CONTRACT LABOR	\$3,427	\$7,566
7	DEPRECIATION EXPENSE	(\$330)	\$10,007
8	INTEREST EXPENSE	(\$35,469)	\$5,931
9	LEGAL AND ACCOUNTING	\$65	\$640
10	MOWING	(\$100)	\$200
11	PERMITS AND FEES	(\$979)	\$999
12	POSTAGE	\$323	\$623
13	REPAIRS AND MAINTENANCE	(\$85)	\$5,747
14	SUPPLIES	\$646	\$5,723
15	UTILITY PROPERTY TAXES	(\$1,322)	\$3,166
16	UTILITIES	\$210	\$4,761
17	DONATIONS	\$85	\$85
18	TOTAL OPERATING EXPENSES	(\$31,745)	\$48,371
19	TAXES OTHER THAN INCOME TAXES	\$0	\$0
20	INCOME TAXES - CURRENT & DEFERRED	\$712	\$712
21	NET OPERATING EXPENSES	(\$31,033)	\$49,083
22	NET OPERATING INCOME	\$24,702	(\$16,951)

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B-3
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HOWISON HEIGHTS, INC.
EXPLANATION OF STAFF ADJUSTMENTS TO INCOME STATEMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS
SCHEDULE B-3
WEB EXHIBIT NO. 1

LINE NO. *****		INCREASE / (DECREASE) TO OPERATIONS *****
	<u>STAFF ADJUSTMENT NO. 1</u>	
1	SALE OF WATER	
2	To adjust water sales to equal the amounts on Howison Heights' monthly revenue work papers.	\$2,069
	<u>STAFF ADJUSTMENT NO. 2</u>	
3	HOOKUP FEES	
4	To adjust hookup fees to reflect the fees from one hookup per year.	(8,400)
	<u>STAFF ADJUSTMENT NO. 3</u>	
5	AUTO	
6	Adjustment needed to reflect auto expense based on the IRS' standard mileage rate for 2010.	2,151
	<u>STAFF ADJUSTMENT NO. 4</u>	
7	BANK FEES	
8	Adjustment required to reflect only monthly service charges for 2010.	(367)
	<u>STAFF ADJUSTMENT NO. 5</u>	
9	CONTRACT LABOR	
10	To reflect contract labor expense recorded in the Company's general ledger.	3,427
	<u>STAFF ADJUSTMENT NO. 6</u>	
11	DEPRECIATION EXPENSE	
12	To reflect depreciation expense based on the straight line method and on asset	(330)
13	lives approved in a prior Suburban Water rate case.	
	<u>STAFF ADJUSTMENT NO. 7</u>	
14	INTEREST EXPENSE	
15	To reflect interest expense based on the Company's rate base.	(35,469)
	<u>STAFF ADJUSTMENT NO. 8</u>	
16	LEGAL AND ACCOUNTING	
17	To reflect accounting expense billed to Howison Heights during the Test Year.	65

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HOWISON HEIGHTS, INC.
EXPLANATION OF STAFF ADJUSTMENTS TO INCOME STATEMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS
SCHEDULE B-3
WEB EXHIBIT NO. 1

LINE NO. *****		INCREASE / (DECREASE) TO OPERATIONS *****
	<u>STAFF ADJUSTMENT NO. 9</u>	
18	MOWING	
19	To reflect mowing expense recorded in the Company's general ledger.	(100)
	<u>STAFF ADJUSTMENT NO. 10</u>	
20	PERMITS AND FEES	
21	To reflect permits and fees expense recorded in Howison Heights' general ledger,	(979)
22	excluding a late payment fee related to the Company's property taxes.	
	<u>STAFF ADJUSTMENT NO. 11</u>	
23	POSTAGE	
24	To reflect postage expense incurred during 2010.	323
	<u>STAFF ADJUSTMENT NO. 12</u>	
25	REPAIRS AND MAINTENANCE	
26	To reflect repairs and maintenance expense recorded in the Company's general ledger.	(85)
	<u>STAFF ADJUSTMENT NO. 13</u>	
27	SUPPLIES	
28	To reflect supplies expense recorded in the Company's general ledger.	646
	<u>STAFF ADJUSTMENT NO. 14</u>	
29	UTILITY PROPERTY TAXES	
30	To reflect actual property taxes, sales tax, and safe water drinking fee for 2010.	(1,322)
	<u>STAFF ADJUSTMENT NO. 15</u>	
31	UTILITIES	
32	To reflect actual utilities expense based on monthly utility bills for 2010.	210
	<u>STAFF ADJUSTMENT NO. 16</u>	
33	DONATIONS	
34	To record 50% of the donations Howison Heights made during 2010.	85

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HOWISON HEIGHTS, INC.

EXPLANATION OF STAFF ADJUSTMENTS TO INCOME STATEMENT
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS

SCHEDULE B-3

WEB EXHIBIT NO. 1

LINE
NO.

INCREASE / (DECREASE)
TO OPERATIONS

STAFF ADJUSTMENT NO. 17

35 INCOME TAXES - CURRENT & DEFERRED
36 To calculate current income taxes based upon Staff's adjustments

712

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HOWISON HEIGHTS, INC.
DOCKET NO. 12-HHIW-382-RTS
STAFF ADJUSTED AND PRO FORMA CALCULATION OF TAXABLE INCOME
FOR THE TEST YEAR ENDED DECEMBER 31, 2010

DOCKET NO. 12-HHIW-382-RTS
SCHEDULE B-4
WEB EXHIBIT NO. 1

LINE NO.	DESCRIPTION	A APPLICANT JURISDICTIONAL PER BOOKS	B APPLICANT TEST YEAR ADJUSTMENTS	C APPLICANT ADJUSTED TEST YEAR	D STAFF TEST YEAR ADJUSTMENTS	E STAFF ADJUSTED TEST YEAR	F STAFF PRO FORMA ADJUSTMENTS	G STAFF PRO FORMA TEST YEAR
1	NET OPERATING AND MAINTENANCE EXPENSES	\$80,116	\$0	\$80,116	(\$31,745)	\$48,371		\$48,371
2	ADD: INTEREST EXPENSE	0		0	0	0		0
3	MARGIN REQUIRED	\$80,116	\$0	\$80,116	(\$31,745)	\$48,371		\$48,371
4	O & M MARGIN PERCENTAGE	8%	8%	8%	8%	8%		
5	MARGIN REQUIRED	6,409	0	6,409	(2,540)	3,870	873	4,742
<u>STATE TAXABLE INCOME</u>								
	FROM TO TAX RATE AMOUNT OVER							
6	0 50,000 0 4.00% 0					155		190
7	50,000 999,999,999 2,000 7.00% 50,000					0		0
8	KANSAS INCOME TAX - CURRENT	\$0	\$0	\$0	\$0	\$155		\$190
9	TAXABLE FEDERAL INCOME	\$6,409	\$0	\$6,409	(\$2,540)	\$3,715		\$4,553
<u>FEDERAL TAXABLE INCOME</u>								
	FROM TO TAX RATE AMOUNT OVER							
10	0 50,000 0 15.00% 0	0		0	557	557		683
11	50,000 75,000 7,500 25.00% 50,000	0		0	0	0		0
12	75,000 100,000 13,750 34.00% 75,000	0		0	0	0		0
13	100,000 335,000 22,250 39.00% 100,000	0		0	0	0		0
14	335,000 10,000,000 113,900 34.00% 335,000	0		0	0	0		0
15	10,000,000 15,000,000 3,400,000 35.00% 10,000,000	0		0	0	0		0
16	15,000,000 18,333,333 5,150,000 38.00% 15,000,000	0		0	0	0		0
17	18,333,333 999,999,999 35.00%	0		0	0	0		0
18	FEDERAL INCOME TAX - CURRENT	\$0	\$0	\$0	\$557	\$557		\$683
19	STATE EFFECTIVE TAX RATE					4.00%		
20	FEDERAL EFFECTIVE INCOME TAX RATE					14.40000%		
21	TOTAL MARGINAL TAX RATE	0.395500	0.395500	0.395500	0.395500	0.184000		
22	1 - TOTAL MARGINAL TAX RATE	0.604500	0.604500	0.604500	0.604500	0.816000		
23	NET TO GROSS MULTIPLIER					1.225490		
<u>SUMMARY OF INCOME TAXES - CURRENT AND DEFERRED</u>								
24	DEFERRED INCOME TAX	\$0	\$0	\$0	\$0	\$0		\$0
25	KS INCOME TAX - CURRENT	0	0	0	155	155		190
26	FED INCOME TAX - CURRENT	0	0	0	557	557		683
27	TOTAL INCOME TAXES - CURRENT AND DEFERRED	\$0	\$0	\$0	\$712	\$712		\$873


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the MOTION TO INITIATE INVESTIGATION, was served via U.S. Mail, postage prepaid, this 14th day of January, 2013, to the following:

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
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PO BOX 17
OTTAWA KS 66067

HOLLY FISHER, LITIGATION COUNSEL
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*****Hand Delivered*****



Vicki Jacobsen