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ADAM GARDINER  
Recorder, Salt Lake County, UT  
MERIDIAN TITLE  
BY: eCASH, DEPUTY - EF 7 P.

When recorded, mail to:

Paul M. Durham, Esq.  
Durham Jones & Pinegar  
111 E. Broadway, Suite 900  
Salt Lake City, UT 84111

MTC: 263398  
TAX: 26-36-453-043

## DEED OF TRUST

THIS DEED OF TRUST ("Deed of Trust"), is made and entered into as of the 5 day of ~~June~~ <sup>July</sup>, 2018, by and among HOLMES HOMES, INC., a Utah corporation, as "Trustor," with a mailing address at 126 W. 10000 South, Suite 250, Sandy, UT 84070, in favor of PAUL M. DURHAM, Esq., attorney at law and a member of the Utah State Bar, as "Trustee," with a mailing address at Durham Jones & Pinegar, 111 E. Broadway, Suite 900, Salt Lake City, UT 84111, and CLYDE COMPANIES, INC., a Utah corporation, as "Beneficiary," with a mailing address at 730 North 1500 West, Orem, UT 84057.

### WITNESSETH:

A. Trustor hereby conveys, warrants, and transfers to Trustee, in trust, with power of sale, the Trustor's present and future estate, right, title and interest in the real property as more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein, together with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now and hereafter used or enjoyed with therewith (collectively, the "Property").

B. The Property shall be deemed to be the security hereby given for the payment of the indebtedness and the performance of the obligations evidenced and secured hereby.

C. This Deed of Trust is given for the purpose of securing the following obligations (the "Obligations"):

(1) the payment and performance of each and every obligation of Trustor evidenced by that certain promissory note dated of even date herewith, in the original principal sum of of Six Hundred Sixty Thousand and 00/100 Dollars (\$660,000.00), made by Trustor and payable to the order of Beneficiary at the times and in the manner set forth in the promissory note (the promissory note is hereinafter referred to as the "Note");

(2) any extensions, renewals, or modifications of the Note or of the obligations evidenced thereby, regardless of the extent of or the subject matter of any such extension, renewal, or modification; and

(3) the payment and performance of each and every agreement and obligation of Trustor under this Deed of Trust.

C. In connection with this Deed of Trust, the parties agree as follows:

(1) Trustor hereby represents and warrants that: (a) Trustor has the authority and right to execute and deliver this Deed of Trust; (b) Trustor shall defend the title to the Property against all claims and demands whatsoever; (c) the Property is free and clear of any and all liens and encumbrances; (d) any and all

obligations Trustor may have incurred in connection with the Property are current and without default; and (e) Trustor hereby releases, waives, and relinquishes all exemptions and homestead rights which may exist with respect to the Property.

(2) Trustor shall promptly pay or cause to be paid to Beneficiary, or order, and shall promptly perform or cause to be performed, each and every payment and obligation on the part of Trustor provided to be paid or performed in connection with any of the Obligations. All of such payments and obligations are mandatory, and Trustor's failure to accomplish any of the same shall constitute a default under this Deed of Trust.

(3) Unless and to the extent otherwise agreed, in writing, by Trustor and Beneficiary, Trustor shall pay, at least ten (10) days before delinquent, all taxes, assessments, and governmental, municipal, or other charges or impositions levied against or affecting the Property which are attributable to Trustor during Trustor's ownership of the Property, and shall promptly deliver all receipts for such payments to Beneficiary upon request.

(4) Trustor shall maintain an insurance policy on each structure or improvement on the Property covering property damage and casualty in the amount of the fair market thereof, and shall carry a general liability policy in the amount of Two Million Dollars (\$2,000,000.00) with insurance carriers reasonably acceptable to Beneficiary, naming Beneficiary as an additional insured.

(5) This Deed of Trust shall be deemed to be in default hereunder in the event: (a) Trustor or Maker under the Note shall fail to pay, perform or discharge or to cause to be paid, performed, or discharged, at the time and in the manner agreed upon herein, any of the terms and conditions of this Deed of Trust or the Note; or (b) if Trustor or Maker under the Note shall become insolvent, make an assignment for the benefit of creditors, be the subject of any bankruptcy proceeding, reorganization, arrangement, insolvency, receivership, liquidation or dissolution proceedings.

With respect to a default hereunder, Beneficiary shall, before exercising Beneficiary's right of acceleration available hereunder, give Trustor written notice of such default and allow Trustor a period of thirty (30) days after the mailing or personal delivery of such notice to cure such default. Upon the failure of Trustor to timely cure such a default, or upon the occurrence of any other default hereunder, all of the Obligations shall, at the option of Beneficiary and without notice or demand, immediately become due and payable and Beneficiary may either:

(a) declare the entire indebtedness secured hereby to be immediately due and payable, as specified in the Notes;

(b) to the extent permitted by law, bring an action to collect any installment which is due or past due and payable without affecting or losing the security of this Deed of Trust or waiving any other right or remedy allowed by law;

(c) foreclose this Deed of Trust in the manner provided by law for the foreclosures of mortgages on real property, bring an action for damages, or exercise such other remedies or combinations of remedies as Beneficiary or Trustee may have under law and equity; and

(d) exercise the Power of Sale described below.

No power or remedy herein provided shall be exclusive of any other power or remedy which now exists or

which may hereafter exist by law.

(5) All procedural matters relating to exercise of the Power of Sale available under this Deed of Trust (such as, but not limited to, the manner of giving notice of sale, the contents of such notice, the persons to receive notice, the time which must elapse between various stages of the proceeding, the method for establishing that proper notice has been given, and the manner in which the sale is conducted) shall be governed by the statutory law which is in effect at the time said power is exercised. In the event some or all of such procedural matters are not covered by then-effective legislation, the matters not covered shall be governed by the law which is in effect at the time this Deed of Trust is executed.

(6) Upon exercise of the Power of Sale, following failure of Trustor to timely cure a default hereunder, the Property may be sold in its entirety or in separate parts in such order as Trustee may determine. Any person, including Trustor and Beneficiary, may bid and purchase at the sale. Upon receipt of payment, Trustee shall execute and deliver a Trustee's Deed to the purchaser. The Trustee's Deed may contain recitals of compliance with any requirements of applicable law relating to exercise of the Power of Sale or to the sale. Such recitals shall constitute conclusive evidence of such compliance in favor of bona fide purchasers and encumbrances for value and prima facie evidence thereof in favor of all other persons. The Trustee's Deed shall operate to convey to the grantee, not subject to any right of redemption, the Trustee's title and all right, title, interest, claim of Trustor, of Trustor's successors in interest, and of all persons claiming by, through, or under them, in and to that part of the Property sold, including any and all rights, title interest, or claim in and to such part which may have been acquired by Trustor or Trustor's successors in interest subsequent to the execution of this Deed of Trust. Trustee shall apply the proceeds of sale toward payment of the following, and in the order indicated:

(a) all costs and expenses (regardless of the particular nature thereof) incurred in connection with exercise of the Power of Sale or with the sale, including Trustee's and attorney's fees and the cost of any evidence of title procured in connection with the sale;

(b) each sum the payment of which is secured by this Deed of Trust; and

(c) the balance, if any, to those entitled thereto or, at Trustee's discretion, such remainder may be deposited with the Clerk of the County in which the sale took place.

Trustor hereby authorizes Trustee, upon Trustee's being presented with an affidavit signed by Beneficiary setting forth facts showing a default under this Deed of Trust, to accept as true and conclusive all facts and statements contained therein and to rely and act thereon.

(7) In the event Trustor sells, conveys, transfers or disposes of the Property or any part thereof, either voluntarily or involuntarily, or agrees to do so, without the prior written consent of Beneficiary, then Beneficiary shall have the right at Beneficiary's option to declare all amounts secured hereby immediately due and payable.

(8) In any judicial proceeding brought to foreclose this Deed of Trust as a mortgage, Beneficiary shall be entitled to recover all costs and expenses (regardless of the particular nature thereof and whether incurred prior to or during such proceeding) incident to the realization of Beneficiary's rights hereunder, including court costs and reasonable attorneys' fees. If a deficiency remains after proper application of the proceeds from the sale had pursuant to judicial decree, Trustor shall pay the same immediately after determination of the amount thereof. Such deficiency shall, both before and after judgment therefor is entered, bear interest as allowed by law.

(9) Notwithstanding any acceleration of the maturity of sums secured hereby which may occur pursuant to the terms of this Deed of Trust, Trustor, any of Trustor's successors in interest, any person having of record a subordinate lien or encumbrance affecting any part of the Property, or any Beneficiary having of record a subordinate Deed of Trust affecting any part of the Property may, if Beneficiary and Trustee have theretofore taken steps in preparation of exercise of the Power of Sale available hereunder, and at any time prior to the expiration of three months from the publication of notice of default as provided by law, reinstate this Deed of Trust by: (a) paying to Beneficiary the entire amount which would then be due in connection with the Obligations had no acceleration occurred; (b) paying to Beneficiary all costs and expenses (regardless of the particular nature thereof) actually incurred in enforcing the terms of this Deed of Trust or the Obligations, including Trustee's and attorneys' fees computed as hereinafter provided; and (c) curing in all respects each breach, if any, of Trustor's covenants and agreements contained herein or associated with any of the Obligations which relate to a subject other than the payment of money.

Upon timely fulfillment of the proceeding three conditions all proceedings theretofore had or instituted in preparation of exercise of the Power of Sale available hereunder shall be canceled and this Deed of Trust and the Obligations shall be reinstated and shall be and remain in force and effect the same as if no acceleration had occurred.

(10) Trustor shall pay all filing costs associated with this Deed of Trust.

(11) Trustor hereby requests that a copy of any notice of sale hereunder be mailed to Trustor at the address for Trustor set forth at the outset of this instrument (or to any new primary residence of Trustor). Such Notice shall be deemed to have been given for all purposes hereunder, when deposited in the United States Mail with postage prepaid.

(12) Beneficiary may, through Beneficiary's delivery to Trustee of written request therefor, require Trustee to reconvey, release, and discharge from the operation of this Deed of Trust all or any part of the Property. Such written request shall contain a description of that portion of the Property to be reconveyed, a statement of the consideration, if any, received by Beneficiary for such reconveyance, a declaration that Beneficiary is the owner and holder of the Obligations, and a statement that the Obligations have not been assigned or transferred. Any reconveyance executed by Trustee shall identify this Deed of Trust and shall describe that portion of the Property being released from the lien hereof. The grantee in any such reconveyance may be described as "the person or persons entitled thereto." Any partial reconveyance shall not diminish Trustor's liability for the Obligations and shall not affect or impair the lien of this Deed of Trust with respect to the remaining portion of the Property. This Deed of Trust need not accompany a request for partial reconveyance but, upon Trustee's demand, Beneficiary shall exhibit the Notes to the Trustee.

(13) At any time during the term of this Deed of Trust, Beneficiary may appoint a successor Trustee to act hereunder. All matters relating to the method of effecting a substitution of Trustees (including the information required to be contained in the instrument accomplishing substitution and necessary signatories to such instrument) shall be governed by the statutory law which is in effect at the time substitution takes place. In the event then-effective legislation does not cover some or all of the matters relating to the method of accomplishing a substitution of Trustees, the matters not covered shall be governed by the law which is in effect at the time this Deed of Trust is executed. From the time a substitution of Trustees is accomplished the new Trustee shall succeed to all the power, duties, authority, and title of the Trustee named herein and of any successor Trustee.

(14) This instrument constitutes a Security Agreement as that term is used in the Utah Uniform Commercial Code (the "Code") and the Trustor hereby grants to Beneficiary a security interest in all of the Property, which consists of fixtures subject to the Code, as security for the obligations hereunder.

Pursuant to Section 70A-9-402(7), Utah Code Annotated (1953), as amended, this instrument shall be effective as a financing statement filed as a fixture filing from the date of its recording.

(15) In addition to the foregoing, the parties agree that: (a) this Deed of Trust shall be binding on, and shall inure to the benefit of, the parties to it and their respective heirs, legal representatives, successors and assigns; (b) in the event that any provision of this Deed of Trust shall be held invalid and unenforceable, such provision shall be severable from, and such invalidity or unenforceability shall not be construed to have any effect on, the remaining provisions of this Deed of Trust; and (c) this Deed of Trust shall be governed by, and construed in accordance with, the laws of the State of Utah.

DATED as of the day and year first above written.

HOLMES HOMES, INC.,  
a Utah corporation

By: \_\_\_\_\_  
Its: CFO

STATE OF UTAH )  
                              ) : ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 5 day of ~~June~~ <sup>July</sup>, 2018, by  
Daron Smith, the CFO of HOLMES HOMES, INC., a Utah corporation.

\_\_\_\_\_  
NOTARY PUBLIC



EXHIBIT A

The land referred to in this Deed of Trust is situated in the County of Salt Lake, State of Utah and is described as follows:

Fifteen (15) building lots numbered PV-TH13-36, PV-TH13-37, PV-TH14-38, PV-TH14-39, PV-TH14-40, PV-TH15-41, PV-TH15-42, PV-TH15-43, PV-TH15-44, PV-TH21-61, PV-TH21-62, PV-TH21-63, PV-TH22-64, PV-TH22-65, and PV-TH22-66.

See attached for complete legal description.

MTC File No. 263398

**Exhibit "A"**

Lots PV-TH13-36, PV-TH13-37, PV-TH14-38, PV-TH14-39, PV-TH14-40, PV-TH15-41, PV-TH15-42, PV-TH-15-43, PV-TH15-44, PV-TH21-61, PV-TH21-62, PV-TH21-63, PV-TH22-64, PV-TH22-65, and PV-TH22-66, Parkview Townhomes PHase 4 Subdivision Amending Lot B Herriman Towne Center Plat F Phase 2, according too the official plat thereof on file and of record in the office of the Salt Lake County Recorder.