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RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
OLD REPUBLIC TITLE DRAPER/OREM  
BY: eCASH, DEPUTY - EF 26 P.

PREPARED BY AND  
UPON RECORDING  
RETURN TO:  
Markus Williams Young & Hunsicker LLC  
1700 Lincoln Street, Suite 4550  
Denver, CO 80203  
Attention: Sheri L. Kelly-Rabolt

TAX PARCEL ID: 26-13-490-026,  
26-13-490-027

CR# 1934123JM

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY  
AGREEMENT AND FIXTURE FILING**

MADE BY

**PARKWOOD HOMES OF UTAH, LLC, a Colorado limited liability company**

Hereinafter referred to as "Grantor"

TO

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

Hereinafter referred to as "Trustee"

IN FAVOR OF

**ZIONS BANCORPORATION, N.A. DBA VECTRA BANK COLORADO**

Hereinafter referred to as "Beneficiary"

Dated as of October 21, 2019

**THIS DEED OF TRUST SECURES A REVOLVING CREDIT ARRANGEMENT WHEREBY AMOUNTS  
SECURED BY THIS DEED OF TRUST WHICH ARE REPAYED MAY BE RE-BORROWED PURSUANT  
TO TERMS AND CONDITIONS SET FORTH IN THE LOAN DOCUMENTS (as defined herein).**

## **DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

This DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (as from time to time extended, renewed or modified, the "**Deed of Trust**") dated as of October 21, 2019, is made by **PARKWOOD HOMES OF UTAH, LLC**, a Colorado limited liability company ("**Grantor**"), having a principal place of business at 352 Main Street, Suite 300, Gaithersburg, MD 20878, to **OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**, as Trustee ("**Trustee**"), whose address is 11820 S. State Street #330, Draper, UT 84020; in favor of **ZIONS BANCORPORATION, N.A. DBA VECTRA BANK COLORADO** ("**Beneficiary**"), whose address is 2000 S. Colorado Blvd., #2-1200, Denver, CO 80222.

### **DEFINITIONS**

"**Beneficiary**" has the meaning set forth above.

"**Borrower**" means PARKWOOD HOMES – STAPLETON II, INC., a Colorado corporation; PARKWOOD HOMES–STAPLETON III, LLC, a Colorado limited liability company; PARKWOOD TOWNHOMES, LLC, a Colorado limited liability company; PARKWOOD REAL ESTATE SERVICES, LLC, a Colorado limited liability company; PARKWOOD HOMES-STERLING RANCH, LLC, a Colorado limited liability company; PARKWOOD TOWNHOMES II, LLC, a Colorado limited liability company; PARKWOOD HOMES-STAPLETON IV, LLC, a Colorado limited liability company; and PARKWOOD HOMES OF UTAH, LLC, a Colorado limited liability company.

"**Compensation**" means the definition set forth in Section 2.13 below.

"**CC&Rs**" means any and all agreements setting forth conditions, covenants, restrictions, easements, reservations, rights and rights of way for the Property.

"**Debt**" means, collectively, (a) the unpaid principal balance of and the accrued but unpaid interest on the Note, (b) all other sums due, payable or reimbursable to Beneficiary for deposit into the "**Impound Account**" (hereinafter defined) and any other escrows (if any) established or required under the Loan Documents, (c) any and all other liabilities and obligations of Grantor under the Note, this Deed of Trust or the other Loan Documents.

"**Deed of Trust**" means this Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing.

"**Default Rate**" means the definition given to such term in the Note.

"**Event of Default**" means any event of default defined in this Deed of Trust and the Loan Documents.

"**Grantor**" has the meaning set forth above.

"**Impound Account**" means the definition set forth in Section 2.16 below.

"**Improvements**" means, without limitation, all present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Real Property, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Real Property, and all window coverings, drapes and rods, carpeting and floor coverings, it being intended and agreed that all such items will be conclusively considered to be part of the Real Property conveyed by this Deed of Trust, whether or not attached or affixed to the Real Property.

"**Leases**" means the definition set forth in Section 2.7.1(b) below.

"**Loan**" means the definition set forth in Section 1.1 below.

"**Loan Agreement**" means the definition set forth in Section 1.1 below.

"**Loan Documents**" means the definition set forth in Section 1.1 below.

"**Note**" means the definition set forth in Section 1.1 below.

"**Obligations**" means the definition set forth in Section 1.3 below.

"**Permitted Encumbrances**" means the outstanding liens, easements, building lines, restrictions, security interests and other matters (if any) as reflected on those exceptions shown in a Beneficiary Policy of Title Insurance covering the Land issued to Beneficiary to the extent same are valid and subsisting, in full force and effect and do, in fact, cover or affect the Land and the lien and security interests created by the Loan Documents.

"**Personal Property**" means the definition set forth in Section 1.2.3 below.

"**Plans**" means any and all plans, specifications, shop drawings and other technical descriptions prepared for construction of the Improvements, and all supplements thereto and amendments and modifications thereof.

"**Policies**" means all policies of insurance required pursuant to the Loan Agreement.

"**Proceeds**" means the definition set forth in Section 1.2.3 below.

"**Property**" means the real and personal property described in Sections 1.2.1 through 1.2.7 below.

"**Real Property**" means the real property described in the attached **Exhibit A**.

"**Rents**" means the definition set forth in Section 2.7.1(a) below.

"**Security Deposits**" means the definition set forth in Section 2.7.1(c) below.

"**Subdivision**" means the definition set forth in Section 2.9.3 below.

"**Trustee**" means Old Republic National Title Insurance Company.

## 1. **BASIC PROVISIONS.**

1.1 **Amount of Loan; Loan Documents.** Beneficiary has made a revolving line of credit ("**Loan**") available to Grantor and Borrower in an amount not to exceed Eighteen Million and 00/100 Dollars (\$18,000,000.00) evidenced by a Promissory Note dated as of November 26, 2013 payable to the order of Lender in the principal amount of \$10,000,000.00, as amended by (a) a First Amendment to Promissory Note dated as of February 22, 2016, (b) a Second Amendment to Promissory Note dated April 4, 2016, which, among other things, increased the principal amount thereof to \$12,000,000.00 and added Parkwood Homes-Sterling Ranch, LLC, a Colorado limited liability company, as a co-maker, (c) a Third Amendment to Promissory Note dated April 28, 2017, which, among other things, added Parkwood Townhomes II, LLC, a Colorado limited liability company, and Parkwood Homes-Stapleton IV, LLC, a Colorado limited liability company, as co-makers, (d) a Fourth Amendment to Promissory Note dated September 18, 2017, (e) a Fifth Amendment to Promissory Note dated December 8, 2017 which, *inter alia*, increased the principal amount thereof to \$12,000,000.00, (f) a Sixth Amendment to Promissory Note dated as of September 28, 2018 which, *inter alia*, increased the principal amount thereof to \$15,000,000.00, and (g) a Seventh Amendment to Promissory Note of even date herewith which, *inter alia*, increased the principal amount thereof to \$18,000,000.00 (as amended, restated, supplemented, modified, or extended from time to time, "**Note**"). The terms and conditions of the Loan are evidenced by and subject to the terms and conditions of that certain Loan Agreement dated as of November 26, 2013, as amended by (a) a First Amendment to Loan Agreement dated June 5, 2014, (b) a Second Amendment to Loan Agreement dated February 22, 2016, (c) a Third Amendment

to Loan Agreement dated April 4, 2016, which, among other things, added Parkwood Homes-Sterling Ranch, LLC, a Colorado limited liability company, as a co-borrower, (d) a Fourth Amendment to Loan Agreement dated April 28, 2017, which, among other things, added Parkwood Townhomes II, LLC, a Colorado limited liability company, and Parkwood Homes-Stapleton IV, LLC, a Colorado limited liability company, as co-borrowers, (e) a Fifth Amendment to Loan Agreement dated September 18, 2017, (f) a Sixth Amendment to Loan Agreement dated December 8, 2017, (g) a Seventh Amendment to Loan Agreement dated September 28, 2018, and (h) an Eighth Amendment to Loan Agreement of even date herewith, which, among other things, added Grantor as a co-borrower (as amended, restated, supplemented, modified, or extended from time to time, "**Loan Agreement**") executed by Grantor, Borrower and Beneficiary, and by the Note, which Grantor and Borrower have made. The Note, Loan Agreement, and all present and future agreements executed by Grantor (and any other Borrower) in favor of Beneficiary and relating to the Loan collectively shall be referred to as the "**Loan Documents**."

**1.2 Grant of Security in Property.** In consideration of the Loan, Grantor hereby irrevocably grants, conveys, transfers and assigns to Trustee, its successors and assigns, in trust, with power of sale, for the benefit of Beneficiary, with a right of entry and possession as provided below, all of its present and future estate, right, title and interest in and to the following described property now or hereafter acquired ("**Property**"), whether any of the following is now owned or hereafter acquired:

**1.2.1 Real Property.** The Real Property, and all minerals, oil, gas and other hydrocarbon substances on or under the surface of the Real Property (to the extent owned by Grantor), as well as all development rights, permits, licenses, air rights, water, water rights, and water stock (to the extent owned by Grantor) relating to the Real Property.

**1.2.2 Improvements.** All items listed as "**Improvements**" on **Exhibit B** attached hereto.

**1.2.3 Personal Property.** The term "**Personal Property**" includes: (a) all property described in **Exhibit B** attached hereto; (b) all "**Proceeds**" (as defined in Section 2.3.1 below); and (c) all "**Rents**" (as described in Section 2.7.1 below).

**1.2.4 Appurtenances of Real Property.** All appurtenances of the Real Property and all rights of Grantor in and to any streets, roads or public places, easements or rights of way, relating to the Real Property.

**1.2.5 Rents.** All Rents and all rights of Grantor under all present and future leases affecting the Real Property, including but not limited to any security deposits.

**1.2.6 Proceeds.** All Proceeds and all claims arising on account of any damage to or taking of the Real Property or any Improvements thereon or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Real Property or any Improvements.

**1.2.7 Other Collateral.** All other "**Collateral**" (as defined in **Exhibit B** below) pledged by Grantor as security for the Loan.

**1.3 Obligations Secured.** This Deed of Trust secures the following obligations ("**Obligations**"):

**1.3.1 Performance of Note, Loan Agreement and Loan Documents.** Payment and performance of the obligations under the Note, Loan Agreement, and other Loan Documents, including all advances made pursuant to the terms thereof, and all extensions, renewals, substitutions, and modifications of each of the foregoing.

**1.3.2 Performance of the Deed of Trust Obligations.** The performance of Grantor's obligations under this Deed of Trust.

**1.3.3 Payment of Advanced Sums.** The payment of all sums advanced or paid out by Beneficiary or Trustee under any provision of this Deed of Trust, or to protect the security of this Deed of Trust, together with interest thereon as provided herein, should Grantor fail to make any payment or to do any act as herein

provided in connection with the rights granted hereunder, Beneficiary or Trustee, without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereunder, may make any payment or do any act in such manner and to such extent as herein provided or as either may deem necessary to protect the security hereof.

**1.4 Warranty of Title.** Grantor for itself warrants that, except as disclosed to Beneficiary in a writing that refers to this warranty, Grantor lawfully possesses and holds fee simple title to the Property without limitation on the right to encumber, and that this Deed of Trust is a valid first and prior lien on the Property subject only to the matters set forth in Schedule B, Part I of the title insurance policy issued in favor of Beneficiary that ensures the priority of this Deed of Trust. Grantor, at its sole cost and expense, shall at all times keep, protect, defend, and maintain title to the Property free and clear of any liens or encumbrances (other than any lien(s) securing any "Subordinate Debt" [as defined in the Loan Agreement]) that would or could impair the validity or priority of this Deed of Trust. Grantor will not do or suffer any act or omission whereby the value of said Property, or lien hereof or of any estate or title covered hereby, may be diminished or impaired in any way. Grantor shall timely make all required payments under any other deeds of trust or other encumbrances which may now or hereafter affect the Property encumbered by this Deed of Trust and comply with all obligations hereunder. Should Grantor fail to make any such payment or comply with any such obligation, Beneficiary may, without notice to or authorization from Grantor, and without releasing Grantor from any obligation hereunder or under said deed of trust or other encumbrance, pay any sum which may be owing under any other deed of trust or other encumbrance or otherwise cure any default of Grantor thereunder, and the sums so expended by Beneficiary shall be secured hereby and shall be immediately due and payable by Grantor to Beneficiary, and shall bear interest at the Default Rate until paid. Any default under any other deed of trust or other encumbrance that continues beyond the expiration of any applicable grace period which may now or hereafter affect the Property encumbered by this Deed of Trust shall constitute an Event of Default hereunder.

**1.5 Not Residential; No Occupancy.** No portion of the Property is or will be occupied by Grantor as its principal residence as used in applicable law and Grantor hereby waives the right to claim the Property as their principal residence. Under no circumstances shall Grantor, without the prior written consent of Lender, enter into, or permit, Leases, rentals or occupancies of any kind of all or any portion of the Property prior to the sale thereof to a third-party purchaser.

**1.6 Non-Agricultural.** No portion of the Property is used or will be used principally for agricultural purposes.

**2. COVENANTS OF GRANTOR.** To protect the security of this Deed of Trust, Grantor agrees:

**2.1 Performance.** To pay all indebtedness and perform all obligations that are secured by this Deed of Trust in accordance with their terms.

**2.2 Insurance.** As provided in more detail in the Loan Agreement, which insurance provisions shall control over the insurance provisions in this Deed of Trust if there be any inconsistency in the respective insurance provisions, to maintain and keep at all times the buildings and improvements which are now or hereafter erected upon the Property insured against loss or damage by vandalism, malicious mischief and fire with "all-risk" insurance coverage due to fire or other casualties named in standard policies of insurance and against loss of rent, all in amounts approved by Beneficiary and by an insurance company or companies or governmental agency or instrumentality approved by Beneficiary. All policies for such insurance shall be made payable, in case of loss, to Beneficiary pursuant to standard mortgagee's loss payable endorsement, and shall be delivered to and held by Beneficiary as further security for the payment of said Loan and other moneys herein mentioned, with evidence of renewal coverage delivered to Beneficiary at least thirty (30) days (if available) before the expiration date of any policy. In the event of Grantor's default hereunder, Beneficiary upon giving notice to Grantor may procure such insurance to be effected upon Beneficiary's interest or upon the interest of Trustee or upon the interest of the owners of said Property and in their names. Loss, if any, shall be made payable to Beneficiary, and Beneficiary may pay and expend for premiums for such insurance such moneys as Beneficiary may deem to be necessary. The form of all policies shall be reasonably accepted by Beneficiary. If Grantor is a co-insurer under any policies of fire and "all-risk" coverage insurance, then Grantor covenants and agrees that, upon request of Beneficiary at any time, it will furnish Beneficiary with satisfactory evidence of insurable value of the Improvements situated on the said

Property. In addition, Grantor shall procure and maintain liability insurance insuring Grantor and, if requested, Beneficiary, against liability because of personal injury or property damage in amounts and by companies approved by Beneficiary.

## **2.3 Assignment of Proceeds.**

**2.3.1 Definition of Proceeds.** The term "**Proceeds**" means all insurance proceeds on the Property, all proceeds of a sale of all or any portion of the Property (subject to the release provisions of the Loan Agreement), and all causes of action, claims, "**Compensation**" (as defined below), awards and recoveries for any damage, condemnation or taking of all or any part of the Property or for any damage or injury to it or for any loss or diminution in value of the Property. All Proceeds are hereby assigned to and shall be paid to Beneficiary. Upon written request by Beneficiary, Grantor shall appear in and prosecute or defend any action or proceeding that may affect the lien or the priority of the lien of this Deed of Trust or the rights of Beneficiary hereunder and shall pay all costs, expenses (including the cost of searching title) and attorneys' fees incurred in such action or proceeding. At Beneficiary's option, Beneficiary may appear in and prosecute (either in its own name or in the name of Grantor) or participate in any suits or proceedings relating to any such proceeds, causes of actions, claims, compensation, awards or recoveries and may adjust, compromise or settle any claim in connection therewith. Beneficiary may pay, purchase, contest or compromise any adverse claim, encumbrance, charge or lien that in the judgment of Beneficiary appears to be prior or superior to the lien of this Deed of Trust, other than any Permitted Exceptions.

**2.3.2 Application of Proceeds.** Subject to the provisions of Section 2.3.3 below, Beneficiary shall apply any Proceeds received by it as follows: first, to the payment of all of Beneficiary's reasonable costs and expenses (including but not limited to legal fees and disbursements) incurred in obtaining those sums; and, then, in Beneficiary's sole discretion and without regard to the adequacy of its security, to the payment of the indebtedness and obligations secured by this Deed of Trust. Any application of such funds to the indebtedness secured hereby shall not be construed to cure or waive any Event of Default or invalidate any acts of Beneficiary or Trustee arising out of such Event of Default.

**2.3.3 Application of Insurance Proceeds.** Notwithstanding the foregoing, any insurance proceeds or condemnation or eminent domain awards (in addition to any funds provided by Grantor, as set forth in Section 2.12.3 below) shall be applied to the restoration of the Property pursuant to Section 2.12 below, provided that:

- (a) The Improvements on the Property are able to be restored in their entirety with such proceeds or awards;
- (b) Grantor is not in default under any of the Loan Documents beyond the expiration of any applicable cure periods; and
- (c) The method for disbursement of any such proceeds or awards by Beneficiary for restoration shall be subject to the terms and conditions of Section 2.12 below.

Provided, however, that nothing herein shall prevent Beneficiary from applying any such proceeds or awards and/or Grantor's funds in accordance with the terms of Section 2.3.2 if, as required by applicable law, Beneficiary is able to demonstrate that its security for the Loan has been impaired.

**2.4 Property Taxes and Assessments.** Grantor agrees to pay when due all taxes, fees, impositions, and assessments which are or may become a lien on all or any portion of or interest in the Property or which are assessed against the Property or its rents, royalties, profits and income, subject to any provisions of the Loan Agreement permitting Grantor to contest any such amounts.

**2.5 Mechanic's Liens.** Grantor also agrees to pay when due all lawful claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered with respect to the Property, subject to any provisions of the Loan Agreement permitting Grantor to contest any such claims or demands including, without limitation, the bonding provisions set forth in Section 5.13 of the Loan Agreement.

**2.6 Perfection of Security.** Grantor agrees to execute and deliver to Beneficiary, from time to time on demand and at Grantor's cost and expense, any documents required to perfect and continue the perfection of Beneficiary's interest in the Property, or to effect any purpose hereunder.

**2.7 Assignment of Rents and Income.** Notwithstanding the provisions of this Section 2.7, this Deed of Trust is subject to the Utah Uniform Assignment of Rents Act, *Utah Code Annotated 57-26-101 et seq.* (the "Act"), and in the event of any conflict or inconsistency between the provisions of this Deed of Trust and the provisions of the Act, the provisions of the Act shall control and the Beneficiary shall have all rights and remedies available under the Act. Under no circumstances shall the following provisions of this Section 2.7 be construed to permit Grantor to enter into, or permit, Leases, rentals or occupancies of any kind in contravention of Section 1.5 hereof.

**2.7.1 Scope of Assignment.** This assignment is intended to confer upon Beneficiary all rights, and impose upon Grantor all obligations and is intended to be construed in accordance with said statutory requirements. Grantor hereby absolutely and irrevocably grants, sells, assigns, transfers and sets over to Beneficiary:

(a) **Rents.** All of the rents, issues, profits, royalties, income, cash proceeds, "Security Deposits" (as defined below) and other benefits (collectively "**Rents**") now existing or hereafter created and affecting all or any portion of the Property or the use or occupancy thereof.

(b) **Leases.** All of such Grantor's right, title and interest in and to all leases, subleases, subtenancies, licenses, occupancy agreements and concessions covering Property or any portion thereof or space therein now or hereafter existing, including all modifications, amendments, extensions and renewals thereof, and all rights and privileges incident thereto (collectively "**Leases**").

(c) **Security Deposits.** All security deposits, guaranties and other security now or hereafter held by Grantor as security for the performance of the obligations of the lessees under the Leases (collectively "**Security Deposits**").

**2.7.2 Assignment.** This assignment is intended by Grantor and Beneficiary to create and shall be construed to create a present assignment to Beneficiary of all of Grantor's right, title and interest in the Rents and in the Leases. Grantor and Beneficiary further agree that, during the term of this assignment, the Rents shall not constitute property of Grantor (or of any estate of Grantor) within the meaning of 11 U.S.C. Section 541, as amended from time to time.

**2.7.3 Grant of License.** By its acceptance of this assignment and so long as an Event of Default shall not have occurred and be continuing hereunder, Beneficiary hereby grants to Grantor a revocable license to enforce the Leases, to collect the Rents, to apply the Rents to the payment of costs and expenses incurred in connection with the development, construction, operation, maintenance, repair and restoration of the Property, and to any indebtedness secured thereby and to distribute the balance, if any, to Grantor.

**2.7.4 Revocation of License.** Upon the occurrence of an Event of Default, and at any time thereafter during the continuance of such default, Beneficiary shall have the right to revoke the license granted to Grantor hereby by giving written notice of such revocation to Grantor. Upon such revocation, Grantor shall promptly deliver to Beneficiary all Rents then held by Grantor (to the extent such Rents are separately identifiable from Grantor's other funds), and Beneficiary shall thereafter be entitled (a) to enforce the Leases, to collect and receive, without deduction or onset, all Rents payable thereunder, including, but not limited to, all Rents which were accrued and unpaid as of the date of such revocation, and (b) to apply such Rents as provided in this Deed of Trust.

**2.7.5 Appointment of Grantor as Agent for Beneficiary.**

(a) **Purpose of Appointment.** Upon such revocation, Beneficiary may, at its option, appoint Grantor to act as agent for Beneficiary for the purpose of (i) managing and operating the Property

and paying all expenses incurred in connection therewith and approved by Beneficiary, (ii) enforcing the provisions of the Leases, and/or (iii) collecting all Rents due thereunder.

(b) **Notice to Grantor To Act as Agent.** If Beneficiary so elects, Beneficiary shall give written notice thereof to Grantor to act as agent of Beneficiary for the purpose or purposes specified in such notice and Grantor shall promptly comply with all instructions and directions from Beneficiary with respect thereto. Grantor shall not be entitled to any management fee, commission or other compensation unless expressly agreed to in writing by Beneficiary.

(c) **Deposit of Rents Collected.** All Rents collected by Grantor as agent for Beneficiary pursuant to this Section shall be immediately deposited in an insured account in the name of Beneficiary in a bank or other financial institution designated by Beneficiary. All Rents collected by Grantor and all amounts deposited in such account, including interest thereon, shall be the property of Beneficiary and Grantor shall not be entitled to withdraw any amount from such account without the prior written consent of Beneficiary.

(d) **Purpose of Agency.** The agency hereby created shall be solely responsible for the purpose of implementing the provisions of this assignment and collecting the Rents due Beneficiary hereunder. Nothing contained herein shall place upon Beneficiary the responsibility for the management, control, operation, repair, maintenance or restoration of the Property, nor shall Beneficiary be liable under or be deemed to have assumed Grantor's obligations with respect to the Leases. Beneficiary may at any time terminate the agency relationship with Grantor by written notice to Grantor.

**2.7.6 Collection by Beneficiary.** Upon the occurrence of an Event of Default, and at any time thereafter during the continuance thereof, Beneficiary shall have the right, in addition to the rights granted pursuant to this Section, to collect all or any portion of the Rents assigned hereby directly or through a court-appointed receiver, upon ex parte application and without notice to Grantor or anyone claiming under Grantor, notice thereof being expressly waived by Grantor, or pursuant to a notice to the lessees or by any other means set forth under applicable law. Such rights shall include without limitation any and all of the following:

(a) **Notice to Lessees To Pay Rents to Beneficiary.** The right to notify the lessees under the Leases, with or without taking possession of the Property, to demand that all Rents under such Leases thereafter be paid to Beneficiary;

(b) **Enter and Possess the Property.** The right to enter into possession of the Property, either by a court-appointment of a receiver ex parte or by any other legally permissible means, to assume control with respect to and to pay all expenses incurred in connection with the development, construction, operation, maintenance, repair or restoration of the Property, to enforce all Leases and to collect all Rents due thereunder, and to apply all Rents received by Beneficiary as set forth herein, if ordered by a court of competent jurisdiction, to amend, modify, extend, renew and terminate any or all Leases or to execute new Leases, and to do all other acts which Beneficiary shall determine, in its sole discretion, to be necessary or desirable to carry out the purposes of this assignment; and

(c) **Specific Performance.** The right to specifically enforce the provisions of this assignment and, if Beneficiary shall so elect, to obtain the appointment of a receiver ex parte pursuant to and in accordance with the provisions of this Deed of Trust.

**2.7.7 Protection of Lessees.** Grantor and Beneficiary agree that all lessees under any Leases shall be bound by and required to comply with the provisions of this assignment. In connection therewith, Grantor and Beneficiary further agree as follows:

(a) **Notice to Lessees of Assignment.** If requested by Beneficiary, Grantor shall (i) notify each lessee under any Lease now or hereafter affecting all or any portion of the Property of the existence of this assignment and the rights and obligations of such Grantor and Beneficiary hereunder, (ii) provide each present or future lessee with a copy of this assignment, and (iii) use its commercially reasonable best efforts to obtain each lessee's agreement to be bound and comply with the provisions hereof.



(b) **Reference to Assignment.** All Leases hereafter executed with respect to the Property or any portion thereof shall contain a reference to this assignment and shall state that such lessee shall be bound by and shall comply with the provisions hereof.

(c) **Occurrence of Event of Default.** Upon the occurrence of an Event of Default and at any time thereafter during the continuance thereof, Beneficiary may, at its option, send any lessee a notice in compliance with applicable law to the effect that (i) an Event of Default has occurred and that Beneficiary has revoked Grantor's license to collect the Rents, (ii) Beneficiary has elected to exercise its rights under this assignment and applicable law, and (iii) such lessee is thereby directed to thereafter make all payments of Rents and to perform all obligations under its Lease for the benefit of Beneficiary or as Beneficiary shall direct.

(d) **Notice to Lessee To Comply With Leases.** Upon receipt of any such notice from Beneficiary, each lessee is hereby instructed by the applicable Grantor and Beneficiary to comply with the provisions of such notice, to make all payments of Rents and to perform all obligations under the Lease to and for the benefit of Beneficiary or as Beneficiary shall direct. Such notice and direction shall remain effective until the first to occur of: (i) the receipt by Lessee of a subsequent notice from Beneficiary to the effect that such Event of Default has been cured or that Beneficiary has appointed the applicable Grantor to act as agent for Beneficiary pursuant to this assignment; (ii) the appointment of a receiver pursuant to this assignment, in which event such lessee shall thereafter make payments of Rents and perform all obligations under the Leases as may be directed by such receiver; or (iii) the issuance of an order of a court of competent jurisdiction terminating this assignment or otherwise directing such lessee to pay Rents and perform its obligations in a manner inconsistent with said notice.

(e) **Lessee's Reliance on Notice From Beneficiary.** Each lessee shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rents made pursuant to such notice.

(f) **No Duty for Lessee To Investigate.** Each lessee who receives a notice from Beneficiary pursuant to this assignment shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this assignment. Grantor hereby agrees to indemnify, defend and hold such lessee harmless from and against any and all loss, claim, damage or liability arising from or related to payment of Rents or performance of obligations under any Grantor Lease by such lessee made in good faith in reliance on and pursuant to such notice.

(g) **No Assumption by Beneficiary of Lease Obligations.** The payment of Rents to Beneficiary pursuant to any such notice and the performance of obligations under any Lease to or for the benefit of Beneficiary shall not cause Beneficiary to assume or be bound by the provisions of such Lease, including, but not limited to, any duty to return any Security Deposit to the lessee under such Lease unless and to the extent such Security Deposit was paid to Beneficiary by Grantor.

(h) **Assignment Binding on Lessees.** The provisions of this subsection are expressly made for the benefit of and shall be binding on and enforceable by each lessee under any Lease now or hereafter affecting all or any portion of the Property.

**2.7.8 Application of Rents; Security Deposits.** All Rents received by Beneficiary pursuant to this assignment shall be applied by Beneficiary, in its sole discretion, to any of the following:

(a) **First,** to pay any costs and expenses of collection of the Rents that may be incurred by Beneficiary;

(b) **Second,** to pay any costs and expenses incurred by Beneficiary in connection with the development, construction, operation, maintenance, repair or restoration of the Property;

(c) **Third,** to the establishment of reasonable reserves for working capital and for anticipated or projected costs and expenses of the Property, including, without limitation, capital improvements which may be reasonably necessary or desirable or required by law;

(d) **Fourth**, to the payment of any indebtedness then owing by Grantor to Beneficiary; and

(e) **Thereafter**, to remit the remainder, if any, to the person or persons entitled thereto.

(f) In connection herewith, Grantor further agrees that all Rents, if applicable, received by Beneficiary from any lessee may be allocated, if Beneficiary so elects, to the payment of all current obligations of such lessee under its Lease and not to amounts which may be accrued and unpaid as of the date of revocation of Grantor's license to collect such Rents. Beneficiary may, but shall have no obligation to, pursue any lessee for the payment of Rents which may be due under its Lease with respect to any period prior to the exercise of Beneficiary's rights under this Deed of Trust or which may become due thereafter. Beneficiary shall not be liable to any lessee for the payment or return of any Security Deposit under any Lease unless and to the extent that such Security Deposit has been paid to and received by Beneficiary, and Grantor agrees to indemnify, defend and hold Beneficiary harmless from and against any and all losses, claims, damages or liabilities arising out of any claim by a lessee with respect thereto. Grantor further agrees that the collection of Rents by Beneficiary and the application of such Rents by Beneficiary to the costs, expenses and obligations referred to herein shall not cure or waive any default or Event of Default or invalidate any act (including, but not limited to, any sale of all or any portion of the Property or any property now or hereafter securing the Loan) done in response to or as a result of such Event of Default or pursuant to any notice of default or notice of sale issued pursuant to this Deed of Trust.

**2.7.9 Covenants of Grantor.** Grantor agrees as follows:

(a) **No Amendment or Termination of Leases.** Grantor shall not enter into, amend, modify or terminate any Lease of all or any portion of the Property, except in accordance with the provisions of this Deed of Trust;

(b) **No Acceptance of Advance Rent.** Grantor shall not accept advance rent in excess of one (1) month from any Lessee without the prior written consent of Beneficiary;

(c) **Delivery of Leases.** Upon request by written notice to Grantor by Beneficiary, Grantor shall provide Beneficiary with true, correct and complete copies of all Leases subject to confidentiality, together with such other information relating to the Leases or to the lessees thereunder as Beneficiary shall reasonably request; and

(d) **Beneficiary's Rights To Inspect Books and Records.** Upon request of Beneficiary, Grantor shall make available to Beneficiary all books, records, financial statements and other information relating to the Leases, the collection of all Rents, and the disposition and disbursement thereof, all of which shall be kept confidential.

**2.7.10 Priority of Assignment; Further Assurances.** Grantor hereby represents and warrants that the assignment hereby granted is a first priority assignment and that no other assignments of all or any portion of the Rents or the Leases exist or remain outstanding except as may be approved by Beneficiary in connection with the Subordinate Debt. Grantor agrees to take such action and to execute, deliver and record such documents as may be reasonably necessary to evidence such assignment, and to establish the priority thereof and to carry out the intent and purpose hereof. If requested by Beneficiary, Grantor shall execute a specific assignment of any Grantor Lease now or hereafter affecting all or any portion of the Property.

**2.7.11 Beneficiary Not Responsible for Grantor's Obligations.** Nothing contained herein shall operate or be construed to obligate Beneficiary to perform any of the terms, covenants and conditions contained in any Lease or otherwise to impose any obligation upon Beneficiary with respect to any Lease, including, but not limited to, any obligation arising out of any covenant of quiet enjoyment therein contained in the event the lessee under any such Lease shall have been joined as a party defendant in any action to foreclose and the estate of such Lessee shall have been thereby terminated. Prior to actual entry into and taking possession of the Property by Beneficiary, this assignment shall not operate to place upon Beneficiary any responsibility for the operation, control,

care, management or repair of the Property or any portion thereof, and the execution of this assignment by Grantor shall constitute conclusive evidence that all responsibility for the operation control, care, management and repair of the Property is and shall be that of Grantor, prior to such actual entry and taking of possession.

**2.7.12 Termination of Assignment.** A full and complete release of this Deed of Trust shall operate as a full and complete release of all of Beneficiary's rights and interest hereunder. Upon the recordation of such release, this assignment shall thereafter be void and of no further effect.

**2.8 Due-On-Sale Provision.** Grantor acknowledges and agrees that the creditworthiness and expertise of Grantor in owning and operating the Property covered by the Deed of Trust which secures this Loan is the basis upon which Beneficiary has determined that it is protected against impairment of the security and risk of default and, thereby, has agreed to issue for the benefit of Grantor the Loan. Except for the sale and release of "Lots" and "Homes" (both as defined in the Loan Agreement) and Subordinate Debt as permitted under the Loan Agreement, Grantor agrees that the Property shall not be conveyed, transferred, assigned, disposed of, or further encumbered, whether voluntarily, involuntarily, by operation of law or otherwise. Any transfer of twenty-five percent (25%) or more of the membership interests in Grantor or any manager of Grantor, or any transfer of any legal or equitable interest in Grantor or any of Grantor's corporate members, except as may otherwise be permitted under the Loan Documents, shall constitute a breach hereof. Any transaction in violation of the above restrictions shall constitute an Event of Default hereunder.

**2.9 Waste; Changes in Zoning; Subdivision.**

**2.9.1 No Waste Permitted; Condition and Repair of Property.** Grantor shall not commit any waste on the Property or take any actions that might invalidate any insurance carried on the Property. Grantor shall maintain the Property, and every portion thereof, in good condition and repair. Beneficiary shall have the right, but not the obligation, to enter upon and take possession of the Property and to make additions, alterations, repairs, or improvements to the Property which Beneficiary may reasonably consider necessary or proper to keep the Property in good condition and repair. Except for any demolition of existing improvements which has been approved by Beneficiary, no improvements may be removed, demolished or materially altered without the prior written consent of Beneficiary, which Beneficiary may withhold in its reasonable discretion. No Personal Property in which Beneficiary has a security interest may be removed from the Property unless it is immediately replaced by similar property of at least equivalent value on which Beneficiary will immediately have a valid first lien and security interest. Grantor affirmatively warrants and represents that if any Improvements, or any part thereof, require inspection, repair or protection other than that given by Grantor, then, and in that event, Beneficiary may enter or cause entry to be made upon said property and into said building or buildings for inspection, repair or protection thereof, and such repair may be made by Beneficiary and be made or done in such manner as fully to protect the interest of Beneficiary, and any and all sums expended by Beneficiary in doing or causing to be done any of the things above authorized are secured by this Deed of Trust and shall be paid by Grantor on demand. Grantor shall comply with all laws, ordinances, governmental regulations, and CC&Rs affecting the Property or requiring any alteration or improvement thereof, and shall permit no violation, as to the Property, of any such law, ordinance, governmental regulation, covenant, condition or restriction affecting the Property.

**2.9.2 No Change in Zoning, CC&Rs, Etc.** Without the prior written consent of Beneficiary, which Beneficiary may withhold in its reasonable discretion, no Grantor shall seek, make or consent to any change in the zoning or conditions of use of the Property. Grantor, at its sole cost, shall materially comply with and make all uncontested payments required under the provisions of any CC&Rs affecting the Property, including but not limited to those contained in any declaration and constituent documents of any condominium, cooperative or planned Unit development project on the Property. Grantor, at its sole cost, shall comply with all existing and future requirements of all governmental authorities having jurisdiction over the Property.

**2.9.3 Governmental Permits, Licenses and Approvals.** If this Deed of Trust covers a subdivision or common interest development ("Subdivision"), as defined under any applicable law relating to the development or sale of a "common interest development" or a "subdivision," Grantor shall obtain, comply with and keep in effect all present and future permits, maps, bonds and other agreements required by applicable laws and regulations for the lawful construction or sale of the applicable Subdivision lots and/or units. Grantor must also

maintain an active sales program for the applicable Subdivision, and always be in a position to convey insurable title to the lots and/or units to purchasers.

**2.10 Books and Records.**

**2.10.1 Books and Records Maintained by Grantor.** Grantor shall keep adequate books and records of account for the Property and for its own financial affairs in a manner sufficient to permit the preparation of financial statements therefrom in accordance with generally accepted accounting principles or other acceptable accounting principles approved by Lender. Beneficiary shall have the right to examine, copy and audit Grantor's records and books of account at all reasonable times, provided that any information obtained by Beneficiary shall be kept confidential. Grantor will deliver to Beneficiary all financial statements for such Grantor and the Property as required under the Loan Agreement.

**2.10.2 Written Statement of Indebtedness.** Grantor will promptly furnish from time to time, upon Beneficiary's request, a duly acknowledged written statement setting forth all amounts due on the indebtedness secured by this Deed of Trust and stating whether any offsets or defenses exist, and containing such other matters as Beneficiary may reasonably require.

**2.11 Defend Security.**

**2.11.1 Defense of Beneficiary.** Grantor shall, at its own expense, appear in and defend any action or proceeding that is reasonably likely to materially affect Beneficiary's security or the rights or powers of Beneficiary or Trustee or that purports to affect any of the Property. If Grantor fails to perform any of its covenants or agreements contained in this Deed of Trust, the Loan Agreement, or any of the other Loan Documents, or if any action or proceedings of any kind (including but not limited to any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding) is commenced which might affect Beneficiary's or Trustee's interest in the Property or Beneficiary's right to enforce its security, then Beneficiary may, at its option, make any appearances, disburse any sums and take any actions as may be necessary or desirable to protect or enforce the security of this Deed of Trust or to remedy the failure of Grantor to perform its covenants, including without limitation payment on behalf of Grantor of any taxes, assessments, liens, insurance premiums, and repair or maintenance costs (without, however, waiving any default of Grantor).

**2.11.2 Payment of Defense Fees and Costs.** Grantor agrees to pay all reasonable out-of-pocket expenses of Beneficiary and Trustee incurred under Section 2.11.1 (including but not limited to fees and disbursements of counsel). Any sums disbursed or advanced by Beneficiary or Trustee shall be additional indebtedness of Grantor secured by this Deed of Trust and shall be payable by Grantor upon demand. Any such sums so disbursed or advanced by Beneficiary shall bear interest at the Default Rate as set forth in the Note. This Section shall not be construed to require Beneficiary or Trustee to incur any expenses, make any appearances, or take any other actions.

**2.12 Damage and Destruction.** Notwithstanding anything contained herein to the contrary, if any part of the Property is damaged or destroyed by any means, including, without limitation, by flood, earthquake, wind or fire, Grantor shall promptly restore the Property to its prior undamaged condition in accordance with the following:

**2.12.1 Plan of Restoration.** Grantor shall present within sixty (60) days of such damage or destruction to Beneficiary a plan for restoration which includes, among other things, plans and specifications prepared by an architect satisfactory to Beneficiary, cost estimates and time schedules which in Beneficiary's sole discretion are satisfactory;

**2.12.2 Construction Contract.** Grantor shall enter into, with Beneficiary's prior written consent, which consent shall not be unreasonably withheld, a contract with contractor(s) providing for the complete restoration in accordance with such restoration plan previously approved by Beneficiary within ninety (90) days of such damage or destruction; and

**2.12.3 Application of Insurance Proceeds.** The insurance proceeds available by reason of such damage or destruction that are received by Beneficiary pursuant to Section 2.3.1 above (less Beneficiary's reasonable costs and expenses incurred in obtaining such funds) plus additional sums provided to Beneficiary by Grantor for restoration purposes shall be at least equal to the anticipated costs of completing such construction, which anticipated costs shall include, but not be limited to, appropriate interest reserves and contingency funds reasonably required by Beneficiary.

**2.12.4 Conditions to Disbursement of Proceeds.** When Grantor has complied with all of the preceding subsections of this Section 2.12, Beneficiary may condition disbursement of the sums specified in Subsection 2.12.3 above to Grantor on terms and conditions such as those governing disbursements of loan funds in construction loans made by Beneficiary for similar properties.

**2.13 Condemnation.** Grantor hereby assigns to Beneficiary, as security for Grantor's obligations under the Loan Documents, all compensation, awards and other payments (collectively "**Compensation**") payable to Grantor in connection with any taking of all or any portion of the Property for public use, and any Proceeds of any related settlement regardless of whether eminent domain proceedings are instituted in connection therewith. Grantor shall deliver to Beneficiary immediately upon receipt all Compensation and related settlement proceeds.

**2.14 Security Agreement and Fixture Filing.**

**2.14.1 Deed of Trust Includes Security Agreement.** This Deed of Trust is intended to be and shall constitute a "**Security Agreement**" as defined in the Utah Uniform Commercial Code, Grantor being the "Debtor" and the Beneficiary being the "Secured Party." Grantor hereby grants Beneficiary a security interest in all items of Personal Property, whether now owned or hereafter acquired for the purpose of securing all Obligations of such Grantor now or hereafter secured by this Deed of Trust.

**2.14.2 Fixture Filing.** This Deed of Trust is effective as a financing statement filed with the Utah County recorder's office as a fixture filing pursuant to Section 70A-9-502(3) of the Utah Code. This Deed of Trust indicates the collateral, goods or accounts that it covers. The goods are or are to become fixtures related to the real property and such collateral is related to the real property described on **Exhibit A** attached hereto. For this purpose, the respective addresses of Grantor, as debtor, and Beneficiary, as secured party, are as set forth in the preambles of this Deed of Trust and the Organizational Identification No. of the Grantor, as debtor, is 20181725447.

**2.14.3 Financing Statements.** Grantor hereby authorizes Beneficiary to file financing statements describing the collateral as "all assets" or words of similar meaning, and shall reimburse Beneficiary for any costs incurred in filing such financing statements.

**2.14.4 No Other Security Interest Permitted.** Grantor shall not create or allow the creation of any other security interest in the Personal Property, except as expressly permitted herein and in the Loan Agreement in connection with the Subordinate Debt.

**2.14.5 Rights Upon Default.** Upon the occurrence of any Event of Default by Grantor, Beneficiary shall have the rights and remedies of a secured party under the Utah Uniform Commercial Code, as well as all other rights and remedies available at law or in equity or as provided herein, all at Beneficiary's option.

**2.14.6 Effect of Filing of Financing Statement.** Grantor and Beneficiary agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way impairing this declaration and the stated intention of the parties hereto that everything used in connection with the operation or occupancy of said property or the production of income therefrom (which is owned by Grantor) is and, at all times and for all purposes and in all proceedings, both legal and equitable, shall be regarded as Real Property encumbered by this Deed of Trust.

**2.15 Indemnification of Trustee and Beneficiary.**

**2.15.1 Indemnification.** Grantor hereby agrees to indemnify Trustee and Beneficiary against, and hold them harmless from, all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, which either may suffer or incur:

(a) By reason of this Deed of Trust (excluding any regulatory or other administrative losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses arising out of claims against Beneficiary in connection with its lending activities); or

(b) By reason of the execution of this Deed of Trust or in performance of any act by Grantor which is required or permitted hereunder or by law; or

(c) As a result of any failure of Grantor to perform Grantor's obligations under the Loan Documents; or

(d) By reason of any alleged obligation or undertaking on Beneficiary's part to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other Loan Document related to the Property, the Loan or Grantor.

**2.15.2 No Liability of Grantor.** Notwithstanding the foregoing, Grantor shall not be liable under Section 2.15.1 to the extent that Grantor establishes that such liability is attributable to the gross negligence or willful misconduct of Trustee or Beneficiary.

**2.15.3 Payment of Indebtedness.** Grantor shall pay all indebtedness arising under this Section 2.15 immediately upon demand by Trustee or Beneficiary, together with interest thereon from the date the indebtedness arises at the Default Rate of interest set forth in the Note (after giving effect to any notice and/or cure periods). Grantor's duty to indemnify Trustee and Beneficiary shall survive the release and cancellation of the Obligations and the release and reconveyance or any partial release or reconveyance of this Deed of Trust.

**2.16 Insurance and Tax Impounds.** Upon notice by Beneficiary on or after the occurrence of an Event of Default, Grantor shall establish and maintain at all times while this Deed of Trust continues in effect an impound account ("**Impound Account**") with Beneficiary for the payment of real estate taxes and assessments and insurance on the Property and as additional security for the indebtedness secured hereby.

**2.16.1 Deposit Into Impound Account.** If required by Beneficiary in its sole discretion after any Event of Default, Grantor shall deposit in the Impound Account an amount determined by Beneficiary to be necessary to ensure that there will be on deposit with Beneficiary an amount which, when added to the monthly payments subsequently required to be deposited with Beneficiary hereunder on account of real estate taxes, assessments and insurance premiums, will result in there always being on deposit with Beneficiary in the Impound Account an amount sufficient to pay the next due semi-annual installments of real estate taxes and assessments on the Property and the next due annual insurance premiums with respect to the Property (if paid in one installment).

(a) If required by Beneficiary in its sole discretion, after an Event of Default under the Loan Agreement following said default, and continuing thereafter until all of the Obligations have been paid and performed in full, Grantor shall pay to Beneficiary, on the first day of each month thereafter, deposits in an amount equal to one-twelfth (1/12) of the amount of the annual real estate taxes and assessments that will next become due and payable on the Property, plus one-twelfth (1/12) of the amounts of the annual premiums that will next become due and payable on insurance policies which such Grantor is required to maintain hereunder, each as estimated and determined by Beneficiary.

(b) Notwithstanding anything to the contrary herein, if the amount of the monthly deposit being paid at any time pursuant to Subsection (a) above, multiplied by the number of subsequent monthly installments, when added to the amount held on deposit at such time, will be insufficient to pay, thirty (30) days prior to delinquency, the next annual installments of insurance and taxes and assessments due and payable, then the

applicable Grantor shall immediately deposit the amount of the deficiency, and any failure to do so shall be deemed to be an Event of Default under this Deed of Trust.

**2.16.2 Responsibility.** Grantor shall be responsible for ensuring the delivery to Beneficiary, at least thirty (30) days prior to the respective due dates for payment thereof, of all bills, invoices and statements for all taxes, assessments and insurance premiums for the Property to be paid from the Impound Account, and Beneficiary shall pay the governmental authority or other party entitled thereto directly to the extent funds are available for such purpose in the Impound Account.

**2.16.3 Reliance.** In making any payment from the Impound Account, Beneficiary shall be entitled to rely on any bill, statement or estimate procured from the appropriate public office or insurance company or agent without any inquiry into the accuracy of such bill, statement or estimate and without any inquiry into the accuracy, validity, enforceability or contestability of any tax, assessment, valuation, sale, forfeiture, tax lien or title or claim thereof.

**2.16.4 Funds in Impound Account.** The Impound Account shall not, unless otherwise explicitly required by applicable law, be or be deemed to be escrow or trust funds, but, at Beneficiary's option and in Beneficiary's discretion, may either be held in a separate account or be commingled by Beneficiary with the general funds of Beneficiary. No interest on funds contained in the Impound Account shall be paid by Beneficiary to Grantor. The Impound Account is solely for the protection of Beneficiary and entails no responsibility on Beneficiary's part beyond the payment of taxes, assessments and insurance premiums following receipt of bills, invoices or statements therefor in accordance with the terms hereof and beyond the allowing of due credit for the sums actually received.

(a) Upon assignment of this Deed of Trust by Beneficiary, any funds in the Impound Account shall be turned over to the assignee and any responsibility of Beneficiary, as assignor, with respect thereto shall terminate.

(b) If the total funds in the Impound Account shall exceed the amount of payments actually applied by Beneficiary for the purposes of the Impound Account, such excess may be credited by Beneficiary on subsequent payments to be made hereunder or, at the option of Beneficiary, refunded to Grantor. If, however, the Impound Account shall not contain sufficient funds to pay the sums required when the same shall become due and payable, Grantor shall, within ten (10) days after receipt of written notice thereof, deposit with Beneficiary the full amount of any such deficiency. If Grantor shall fail to deposit with Beneficiary the full amount of such deficiency as provided above, Beneficiary shall have the option, but not the obligation, to make such deposit and all amounts so deposited by Beneficiary, together with interest thereon at the Default Rate from the date incurred by Beneficiary until actually paid by Grantor, shall be immediately paid by Grantor on demand and shall be secured by this Deed of Trust and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. If there is a default under this Deed of Trust which is not cured within any applicable grace or cure period, Beneficiary may, but shall not be obligated to, apply at any time the balance then remaining in the Impound Account against the indebtedness secured hereby in whatever order Beneficiary shall subjectively determine.

**2.16.5 No Cure or Waiver.** No such application of the Impound Account shall be deemed to cure any default hereunder. Upon full payment of the indebtedness secured hereby in accordance with its terms or at such earlier time as Beneficiary may elect, the balance of the Impound Account then in Beneficiary's possession shall be paid over to Grantor and no other party shall have any right or claim thereto.

**2.17 Unlawful Use, Medical Marijuana, Controlled Substances And Prohibited Activities.** Grantor shall not use, occupy, or permit the use or occupancy of any portion of the Property by Grantor or any lessee, tenant, licensee, permittee, agent, or any other person in any manner that would be a violation of any applicable federal, state or local law or regulation, regardless of whether such use or occupancy is lawful under any conflicting law, including without limitation any law relating to the use, sale, possession, cultivation, manufacture, distribution or marketing of any controlled substances or other contraband (whether for commercial, medical, or personal purposes), or any law relating to the use or distribution of marijuana (collectively, "Prohibited Activities"). Any lease, license, sublease or other agreement for use, occupancy or possession of any portion of the Property

(collectively a "lease") with any third person ("lessee") shall expressly prohibit the lessee from engaging or permitting others to engage in any Prohibited Activities. Grantor shall upon demand provide Lender with a written statement setting forth its compliance with this Section 2.17 and stating whether any Prohibited Activities are or may be occurring in, on or around the Property. If Grantor becomes aware that any lessee is likely engaged in any Prohibited Activities, Grantor shall, in compliance with applicable law, terminate the applicable lease and take all actions permitted by law to discontinue such activities. Grantor shall keep Lender fully advised of its actions and plans to comply with this section and to prevent Prohibited Activities.

This Section 2.17 is a material consideration and inducement upon which Lender relies in extending the Loan and other financial accommodations to Borrower. Failure by Grantor to comply with this section shall constitute a material non-curable Event of Default. Notwithstanding anything in this Deed of Trust, the Note or any other Loan Document regarding rights to cure Events of Default, Lender is entitled upon breach of this Section 2.17 to immediately exercise any and all remedies under this Deed of Trust, the Note and any other Loan Document, and available under law.

In addition and not by way of limitation, Grantor shall indemnify, defend and hold Lender harmless from and against any loss, claim, damage, liability, fine, penalty, cost or expense (including attorneys' fees and expenses) arising from, out of or related to any Prohibited Activities at or on the Property, Prohibited Activities by Grantor or any lessee of the Property, or Grantor's breach, violation, or failure to enforce or comply with any of the covenants set forth in this Section 2.17. This indemnity includes, without limitation, any claim by any governmental entity or agency, any lessee, or any third person, including any governmental action for seizure or forfeiture of any portion of the Property or any other collateral for the Loan (with or without compensation to Lender, and whether or not the Property or any such collateral is taken free of or subject to Lender's lien or security interest).

### **3. EVENTS OF DEFAULT.**

**3.1 List of Events of Default.** An "Event of Default" shall have occurred under this Deed of Trust if Borrower or Grantor shall default under any term, covenant, or condition of this Deed of Trust or any of the other Loan Documents.

**3.2 No Other Loan Defaults.** Neither Grantor nor any "Affiliate" (both as defined in the Loan Agreement) ("Affiliate Borrower") shall be in default under any "Other Loan" (as defined below). For purposes of this Section, an "Other Loan" means any loan by Beneficiary, or any affiliate or subsidiary of Beneficiary, that is made to Grantor or any Affiliate Borrower or that is guaranteed by Grantor or any Affiliate Borrower. It is the expressed intent of Grantor to cross-default this Deed of Trust with any Other Loan, such that any Event of Default under this Deed of Trust shall, at Beneficiary's sole and absolute discretion, constitute a default under each and every Other Loan, and any Event of Default under each and every Other Loan shall, at Beneficiary's sole and absolute discretion, constitute an Event of Default under this Deed of Trust.

### **4. REMEDIES FOR DEFAULT.**

**4.1 List of Remedies for Default.** At any time following an Event of Default, Beneficiary may, at its option, and without notice to or demand upon Grantor (except as may be required under applicable law) take one or more of the following measures:

**4.1.1 Acceleration of Debt.** Declare any or all indebtedness secured by this Deed of Trust to be due and payable immediately;

**4.1.2 Enter and Possess Property.** Enter onto the Property, in person or by agent or by ex parte court appointed receiver, notice of Beneficiary's application for or appointment of such receiver being expressly hereby waived, and take any and all steps which may be desirable in Beneficiary's judgment to complete any unfinished construction and/or to manage, operate, preserve, develop, maintain and protect the Property, and Beneficiary may apply any Rents, royalties, income or profits collected against the Obligations secured by this Deed of Trust without in any way curing or waiving any default of Grantor (with Grantor acknowledging that the right to



obtain a receiver ex parte is a contractual right of Beneficiary and not an equitable remedy, with Beneficiary having the right to obtain a receiver prior to or during any foreclosure and without regard for the value of the Property);

**4.1.3 Assemble and Deliver Personal Property.** Cause Grantor to assemble any Personal Property and deliver it to Beneficiary at a place designated by Beneficiary within the state of Colorado;

**4.1.4 Judicial Foreclosure.** Bring a court action to foreclose this Deed of Trust as a mortgage or to enforce its provisions or any of the indebtedness or Obligations secured by this Deed of Trust;

**4.1.5 Power of Sale.** Cause any or all of the Property to be sold non-judicially under the power of sale granted by this Deed of Trust in any manner permitted by applicable law; and

**4.1.6 Other Rights and Remedies.** Exercise any other right or remedy available under any of the Loan Documents or otherwise available under law or in equity, including without limitation, rights and remedies with respect to the Personal Property that are available to a Secured Party under the Utah Uniform Commercial Code.

#### **4.2 Sale of Property.**

**4.2.1 Record Notices of Default and Sale.** For any sale under the power of sale granted by this Deed of Trust, Beneficiary shall cause Trustee to execute a written notice of default and of election to cause the Trust Estate to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein the Property or some part or parcel thereof is situated. If requested by Trustee, Beneficiary also shall deposit with Trustee, a copy of the Note and all documents evidencing expenditures secured hereby. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Grantor, shall sell the Trust Estate on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Grantor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than allowed by law, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and Beneficiary's attorneys' fees; (2) cost of any evidence of title procured in connection with such sale; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at **five percent (5.00%) per annum above the Applicable Interest Rate (as defined in the Note)** from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the district court of the county in which the sale took place. Nothing in this Section 4.2 dealing with foreclosure procedures or specifying particular actions to be taken by Beneficiary or by Trustee or any similar officer shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by Utah law.

**4.2.2 [Reserved].**

**4.2.3 Sale of Multiple Lots/Parcels.** If the Property consists of several lots or parcels, Beneficiary in its discretion may designate their order of sale or may elect to sell them through a single sale, or through two (2) or more successive sales, or in any other manner Beneficiary may elect. In the event Beneficiary elects to dispose of the Property through more than one (1) sale, Grantor shall pay the costs and expenses of each such sale and of any judicial proceedings wherein the same may be made.

**4.2.4 Right To Purchase.** Beneficiary, may purchase at any sale, and Beneficiary shall have the right to purchase at any foreclosure or trustee sale hereunder by crediting upon the bid price the amount of all or any part of the indebtedness secured hereby.

**4.2.5 Deed at Sale.** Upon the completion of the sale, Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the property sold, but without any covenant or warranty, express or implied, and the recitals in the deed or deeds of any facts affecting the regularity or validity of the sale shall be conclusive against all persons.

**4.3 Waiver of Rights.** Grantor irrevocably and unconditionally waives and releases to the extent waiver and release are permitted by law:

**4.3.1** all rights to direct the order in which any of the Property shall be sold in the event of any sale under this Deed of Trust, and also any right to have any of the Property marshaled upon any sale and, to the fullest extent permitted by law, all rights and benefits under applicable law and any amendments or modifications thereto;

**4.3.2** any and all rights of homestead in and to the Property and all benefits that might accrue to Grantor by virtue of any present or future law exempting the Property from attachment, levy, or sale on execution or providing for any appraisalment, valuation, stay of execution, exemption from civil process, or extension of time for payment.

**4.4 Remedies Are Cumulative.** All remedies contained in this Deed of Trust are cumulative, and Beneficiary has all other remedies provided by law, in equity, or in any other agreement between Grantor and Beneficiary. No delay or failure by Beneficiary to exercise any right or remedy under this Deed of Trust shall be construed to be a waiver of that right or remedy or of any default by Grantor. Beneficiary may exercise any one (1) or more of its rights and remedies at its option without regard to the adequacy of its security.

**4.5 Payment of Expenses.** Grantor shall pay all of Beneficiary's and Trustee's reasonable expenses incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any lawsuit is filed, including but not limited to legal fees and disbursements, foreclosure costs, escrow fees, filing fees, recording fees, and title charges.

**4.6 No Cure or Waiver.** Neither Beneficiary's nor Trustee's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of Rents, issues, profits, Proceeds, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Obligation, nor the exercise of any other right or remedy by Beneficiary or Trustee or any receiver shall cure or waive any breach, Event of Default or notice of default under this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Obligations then due have been paid and performed and Grantor has cured all other defaults), or impair the status of the security, or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, Lease, or option or a subordination of the lien of this Deed of Trust.

**4.7 Power To File Notices and Cure Defaults.** Subject to any notice and cure rights set forth herein or in any of the Loan Documents, Grantor hereby irrevocably appoints Beneficiary and its successors and assigns as Grantor's attorney-in-fact, which agency is coupled with an interest:

**4.7.1** to execute and record any notices of completion, cessation of labor, or any other notices that Beneficiary deems appropriate to protect Beneficiary's interest, and

**4.7.2** upon the occurrence of an Event of Default, to perform any obligation of Grantor hereunder; provided, that:

(a) Beneficiary, as such attorney-in-fact, shall only be accountable for such funds as are actually received by Beneficiary, and

(b) Beneficiary shall not be liable to Grantor or any other person or entity for any failure to act under this section.

**4.8 Power of Attorney.** Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact (such power of attorney being coupled with an interest), and as such attorney-in-fact, Beneficiary may, without the obligation to do so, in Beneficiary's name or in the name of Grantor, prepare, execute, file and record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve any of Beneficiary's security interests and rights in or to any of the Collateral, and upon an Event of Default hereunder, take any other action required of Grantor; provided, however, that Beneficiary as such attorney-in-fact shall be accountable only for such funds as are actually received by Beneficiary.

**5. MISCELLANEOUS.**

**5.1 Invalidity.** The invalidity or unenforceability of any one (1) or more provisions of this Deed of Trust will in no way affect any other provision.

**5.2 Statement.** Grantor agrees to pay Beneficiary a reasonable charge, not to exceed the maximum allowed by law, for giving any statement of the status of the Obligations secured by this Deed of Trust.

**5.3 Notices.** All notices given under this Deed of Trust must be in writing and will be effectively served upon (i) personal delivery, or (ii) the day after such notice is tendered to a nationally recognized overnight delivery service, or (iii) the third day following the day such notice is deposited with the United States Postal Service first class certified mail, return receipt requested, in any case addressed to the address set forth below of the party to whom such notice is to be given, or to such other address as any party shall in like manner designate in writing. The addresses of the parties hereto are as follows:

Grantor:

c/o Parkwood Homes  
Attn: Stephen C. Wilcox or Jack Fleury  
352 Main Street, Suite 300  
Gaithersburg, MD 20878

Beneficiary:

Zions Bancorporation, N.A. dba Vectra Bank Colorado  
Attn: H. Shaw Thomas  
2000 S. Colorado Blvd., #2-1200  
Denver, CO 80222

However, the service of any notice of default or notice of sale under this Deed of Trust as required by law will, if mailed, be effective on the date of mailing. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

**5.4 Rights of Beneficiary To Release Debtors or Security.** Without affecting Grantor's liability for the payment of any of the indebtedness secured by this Deed of Trust, Beneficiary may from time to time and upon notice to Grantor (a) release any person liable for the payment of this indebtedness, (b) extend or modify the terms of that indebtedness, (c) accept additional real or personal property of any kind as security, or alter, substitute or release any property securing that indebtedness, or (d) cause Trustee to consent to the making of any map or plat of the Property, or to release any part of the Property, or to join in granting any easement or creating any restriction on the Property, or to join in any subordination or other agreement affecting this Deed of Trust.

**5.5 Inspection Rights.** Beneficiary may at any reasonable times enter upon and inspect the Property in person or by agent.

**5.6 Full Release.** Upon the payment and performance in full of all Obligations secured by this Deed of Trust, Beneficiary agrees to request Trustee to release the Property, and upon payment by Grantor of its fees and all other sums owing to it under this Deed of Trust, Trustee shall release the Property without warranty to the person or persons legally entitled to it. Such person or persons must pay all costs of recordation. The recitals in the release of any facts will be conclusive as to all persons. The beneficiary in the release may be described as "the person or persons legally entitled thereto." The Loan Agreement sets forth certain terms and conditions for the partial releases of the individual Units or lots comprising the Property encumbered by this Deed of Trust.

**5.7 Partial Release.** Any partial release of any portion of the Real or Personal Property shall be made pursuant to the terms and conditions of the Loan Agreement. Notwithstanding anything to the contrary contained herein or in the Loan Agreement, following such time as any lettered tract or tracts constituting a portion of the Property, as shown in the plat for the Property, have been conveyed to any homeowner's, owner's or condominium association, Beneficiary will, upon the request of Grantor partially release the same from the lien of this Deed of Trust for no consideration.

**5.8 Governing Law.** With respect to procedural matters related to the perfection and enforcement of Lender's rights against the Property, this Deed of Trust will be governed by federal law applicable to Lender and to the extent not preempted by federal law, the laws of the State of Utah. In all other respects, this Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Colorado without regard to its conflicts of law provisions. However, if there ever is a question about whether any provision of this Deed of Trust is valid or enforceable, the provision that is questioned will be governed by whichever state or federal law would find the provision to be valid and enforceable. Nothing in this Deed of Trust or the application of Utah law thereto shall be intended to limit or affect the rights of Beneficiary under Colorado law with respect to the other Loan Documents.

**5.9 Subsequent Grantors and Beneficiaries.** The term "**Grantor**" includes both the original Grantor and any subsequent owner or owners of any of the Property, and the term "**Beneficiary**" includes the original Beneficiary and also any future owner or holder, including pledges and participants, of the Note or any interest therein. Beneficiary shall be permitted to designate a substitute trustee as permitted by applicable law.

**5.10 Headings; Underlining.** The headings of the sections of this Deed of Trust are for convenience only and do not limit its provisions. The use of underlining in this Deed of Trust is for convenience only, and the parties understand and agree that the presence or absence of underlining shall not be used in interpreting or construing this Deed of Trust or any provision hereof.

**5.11 Waiver.** Neither the acceptance of any partial or delinquent payment or performance, nor the failure to exercise any rights upon a default, shall be a waiver of Grantor's obligations hereunder. Beneficiary's consent to any act or omission by Grantor will not be a consent to any other or subsequent act or omission or a waiver of the need for such consent in any future or other instance.

**5.12 Successors and Assigns.** The terms of this Deed of Trust shall bind and benefit heirs, legal representatives, successors and assigns of Grantor and Beneficiary and the successors in trust of Trustee.

**5.13 [Reserved].**

**5.14 Subrogation.** Beneficiary shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Beneficiary pursuant to this Deed of Trust or by the proceeds of any loan secured by this Deed of Trust.

**5.15 Statutes of Limitation.** Grantor hereby waives the pleading of any and all statutes of limitation as a defense to any action brought against Grantor by Beneficiary, to the fullest extent permitted by law.

**5.16 Time of the Essence.** Time is of the essence as to all Obligations secured by or arising under this Deed of Trust.

**5.17 Requests For Notice.** Pursuant to Section 57-1-26 of the Utah Code, Grantor requests that a copy of any notice of default and notice of sale required by law be mailed to it at its address set forth above.

**5.18 Attorneys' Fees.** In an Event of Default; or if proceedings are had in bankruptcy, receivership, reorganization, or other legal or judicial proceedings for the collection of the Loan or the foreclosure of any instrument securing the Loan; or in the event Beneficiary is made a party to any litigation or any litigation is threatened arising out of, as a result of, or in connection with the Loan or as a result of the existence of any instrument securing the Loan, Grantor, and any surety, endorser, guarantor, and accommodation party hereby agree to pay to Beneficiary all expenses and costs incurred by Beneficiary in connection with any such collection, suit, or proceeding, in addition to the principal and interest then due, which expenses and costs shall include, by example and not limitation, the following: attorneys' fees and costs; receiver's fees and costs; sheriff's or public trustee's fees and costs; appraisal fees; property inspection fees; environmental audits; loan servicing fees; expert witness fees; deposition costs; filing fees; the cost of mailing or serving process, notices, and other documents; copy costs; and title insurance premiums or abstracting charges.

**5.19 Savings Clause.** Regardless of any provision contained in this Deed of Trust, the Loan Documents, or any documents executed or delivered in connection therewith, Beneficiary will never be considered to have contracted for or to be entitled to charge, receive, collect, or apply as interest, and hereby disavows any intention to so receive, collect, or apply as interest, any amount in excess of the maximum amount permissible under applicable law. Without limiting its general applicability, the preceding sentence specifically applies to any acceleration of the Obligations or any part thereof. In the event that Beneficiary ever receives, collects, or applies as interest any such excess, the amount which would be excessive interest will be applied to the reduction of the principal balance of the Obligations, and, if the principal balance of the Obligations is paid in full, any remaining excess shall forthwith be paid to Grantor, and Grantor agrees to accept such payment from Beneficiary, together with interest on such sums at the maximum lawful rate then in effect. In determining whether the interest paid or payable exceeds the maximum amount permissible under applicable law, Grantor and Beneficiary shall, to the greatest extent permitted under applicable law:

**5.19.1** Characterize any non-principal payment (other than payments which are expressly designated as interest payments hereunder) as an expense or fee rather than as interest;

**5.19.2** Exclude voluntary prepayments and the effect thereof; and

**5.19.3** Amortize, prorate, allocate, and spread the total amount of interest throughout the entire contemplated term of the Obligations so that the interest rate is uniform throughout the term.

**5.20 Handicapped Access.**

**5.20.1** Grantor agrees that the completed Property shall at all times strictly comply to the extent applicable with the requirements of the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act of 1988, all state and local laws and ordinances related to handicapped access and all rules, regulations, and orders issued pursuant thereto including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (collectively "**Access Laws**").

**5.20.2** Notwithstanding any provisions set forth herein or in any other document regarding Beneficiary's approval of alterations of the Property, Grantor shall not alter the Property in any manner which would increase Grantor's responsibilities for compliance with the applicable Access Laws without the prior written approval of Beneficiary. The foregoing shall apply to tenant improvements constructed by Grantor or by any of its tenants. Beneficiary may condition any such approval upon receipt of a certificate from an architect, engineer, or other person acceptable to Beneficiary of compliance with Access Laws.

**5.20.3** Grantor agrees to give prompt notice to Beneficiary of the receipt by Grantor of any complaints related to violation of any Access Laws and of the commencement of any proceedings or investigations which relate to compliance with applicable Access Laws.

**5.21 Indemnity.**

**5.21.1** Without in any way limiting any other indemnity contained in this Deed of Trust, Grantor agrees to defend, indemnify and hold harmless Trustee and Beneficiary from and against any claim, loss, damage, cost, expense or liability directly or indirectly arising out of claims made in connection with: (a) the making of the Loan, except for violations of banking laws or regulations by Beneficiary; (b) this Deed of Trust; (c) the execution of this Deed of Trust or the performance of any act required or permitted hereunder or by law; (d) any failure of Grantor to perform Grantor's obligations under this Deed of Trust or the other Loan Documents; (e) any alleged obligation or undertaking on Beneficiary's part to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Property; (f) any act or omission by Grantor or any contractor, agent, employee or representative of Grantor with respect to the Property; or (g) any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Beneficiary's sole discretion that Beneficiary may incur, directly or indirectly, as a result of an Event Default.

**5.21.2** The foregoing to the contrary notwithstanding, this indemnity shall not include any claim, loss, damage, cost, expense or liability directly or indirectly arising out of the gross negligence or willful misconduct of any member of Beneficiary or Trustee, or any claim, loss, damage, cost, expense or liability incurred by Beneficiary or Trustee arising from any act or incident on the Property occurring after the full release and release of the lien of this Deed of Trust on the Property. This indemnity shall include, without limitation (a) all consequential damages (including, without limitation, any third-party tort claims or governmental claims, fines or penalties against Trustee or Beneficiary), and (b) all court costs and reasonable attorneys' fees (including, without limitation, expert witness fees) paid or incurred by Trustee or Beneficiary.

**5.21.1** Grantor shall pay immediately upon Trustee's or Beneficiary's demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of interest applicable to the principal balance of the Note as specified therein. Grantor agrees to use legal counsel reasonably acceptable to Trustee and Beneficiary in any action or proceeding arising under this indemnity. The provisions of this Section shall survive the termination and release of this Deed of Trust.

**5.22 Final Agreement.** This written Deed of Trust represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

**5.23 First Lien.** This Deed of Trust is a first deed of trust. Except in connection with the subordinate debt, no further deed or deed of trust will be recorded against the Real Property without the prior written consent of Beneficiary. Failure to comply with this provision shall constitute an Event of Default and the Loan shall, at the option of Beneficiary, immediately become due and payable. Consent to one (1) further encumbrance shall not be deemed to be a waiver of the right to require such consent to future or successive encumbrances.

**5.24 JURY TRIAL WAIVER, CLASS ACTION WAIVER, AND ARBITRATION.** This Deed of Trust is subject to the JURY TRIAL WAIVER, CLASS ACTION WAIVER, and ARBITRATION provisions set forth in the Loan Agreement, which provisions are incorporated herein by this reference.

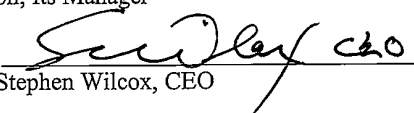
Grantor has executed this instrument as of the date set forth above.

**Grantor:**

**PARKWOOD HOMES OF UTAH, LLC**, a Colorado limited liability company

By: Parkwood Holding Company, Inc., a Colorado corporation, Its Manager

By:

  
Stephen Wilcox, CEO

STATE OF MARYLAND )  
 ) ss.  
COUNTY OF MONTGOMERY )

The foregoing instrument was acknowledged before me this 21 day of October, 2019, by Stephen Wilcox, CEO of Parkwood Holding Company, Inc., a Colorado corporation, the Manager of Parkwood Homes of Utah, LLC, a Colorado limited liability company.

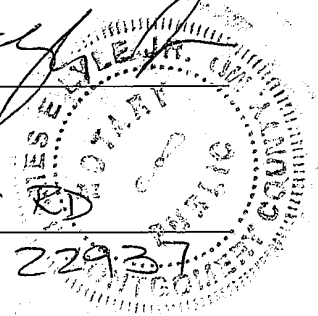
My Commission Expires:

11 / 22

Jamie E. [Signature]  
NOTARY PUBLIC

Residing at:

7544 ESMONT RD  
ESMONT, VA 22937



**EXHIBIT A  
LEGAL DESCRIPTION**

Lots 262 and 265, DAYBREAK VILLAGE 4 WEST PLAT 4 Amending Lot A-2 of the Kennecott Daybreak Oquirrh Lake Plat, according to the official plat recorded August 17, 2018 as Entry No. 12831351, in Book 2018P at Page 288, in the office the Salt Lake County Recorder, Utah.



**EXHIBIT B**  
**DESCRIPTION OF PERSONAL PROPERTY FOR FIXTURE FILING**

1. **REAL PROPERTY RIGHTS, APPURTENANCES AND IMPROVEMENTS.** All present and future structures, buildings, improvements and fixtures of any kind on the real property described in each Deed of Trust (as well as amendments and supplements thereto) granted by Debtor from time to time in favor of Secured Party (collectively, the "**Real Property**"), as well as:

(a) all appurtenances of the Real Property and all rights in and to any streets, roads or public places, easements or rights of way, relating to the Real Property, and all minerals, oil, gas and other hydrocarbon substances on or under the surface of the Real Property, as well as all development rights, permits, licenses, air rights, water and water rights relating to the Real Property, and all existing and future goods and tangible personal property located on the Real Property or wherever located and used or useable in connection with the use, operation or occupancy of the Real Property or in construction of any improvements thereon, including, but not limited to, apparatus, equipment and appliances used to supply air cooling, air conditioning, heat, gas, water, light, power, refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal, waste removal, recreation or other services on the Real Property; and

(b) all elevators, escalators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, partitions, ducts, compressors, plumbing, ovens, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, pools and spas and pool and spa operation and maintenance equipment and apparatus; and

(c) all trees and plants located on the Real Property, and all renewals or replacements thereof or articles in substitution thereof; it being intended and agreed that all such items will be conclusively considered to be part of the Real Property, whether or not attached or affixed to the Real Property ("**Improvements**").

2. **COLLATERAL.** All right, title and interest in and to the following described property and any and all products and proceeds thereof, now owned or hereafter acquired (sometimes all of such being collectively referred to herein as the "**Collateral**"):

(a) **General Intangibles.** All general intangibles relating to design, development, operation, management and use of the Real Property and construction of the Improvements, including, but not limited to:

(i) all names under which or by which the Real Property or the Improvements may at any time be operated or known, all rights to carry on business under any such names or any variants thereof, and all goodwill in any way relating to the Real Property;

(ii) all permits, licenses, authorizations, variances, land use entitlements, approvals and consents issued or obtained in connection with the construction, maintenance or operation of the Improvements;

(iii) all permits, licenses, approvals, consents, authorizations, franchises and agreements issued or obtained in connection with the use, occupancy or operation of the Real Property;

(iv) all rights as a declarant (or its equivalent) under any covenants, conditions and restrictions or other matters of record affecting the Real Property;

(v) all materials prepared for filing or filed with any governmental agency;

(vi) all rights under any contract in connection with the development, design, use, operation, management and construction of the Real Property and/or the Improvements; and

(vii) all books and records prepared and kept in connection with the acquisition, construction, operation and occupancy of the Real Property and the Improvements;

(b) **Contracts.** All construction, service, management, engineering, consulting, leasing, architectural, design, landscape and other similar contracts of any nature, as such may be modified, amended or supplemented from time to time, concerning the design, construction, management, operation, occupancy, use, and/or disposition of any portion of or all of the Real Property;

(c) **Plans and Reports.** All architectural, design and engineering drawings, plans, specifications, working drawings, shop drawings, general conditions, addenda, soil tests and reports, feasibility studies, appraisals, engineering reports, environmental reports and similar materials relating to any portion of or all of the Real Property and/or the Improvements and all modifications, supplements and amendments thereto;

(d) **Sureties.** All payment and performance bonds or guarantees, and any and all modifications and extensions thereof relating to the Real Property and/or the Improvements;

(e) **Payments.** All reserves, deferred payments, deposits, refunds, cost savings, letters of credit and payments of any kind relating to the construction, design, development, operation, occupancy, use and disposition of all or any portion of the Real Property and/or the Improvements, including, without limitation, any property tax rebates now owing or hereafter payable;

(f) **Loan Proceeds.** All proceeds of the loan secured hereby;

(g) **Claims.** All proceeds and any claims arising on account of any damage to or taking of the Real Property and/or the Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Real Property and/or the Improvements;

(h) **Insurance.** All policies of, and proceeds resulting from, insurance relating to the Real Property, Improvements or any of the Collateral, and any and all riders, amendments, renewals, supplements or extensions thereof, and all proceeds thereof;

(i) **Deposits.** All deposits made with or other security given to utility companies with respect to the Real Property and/or the Improvements, and all advance payments of insurance premiums made with respect thereto and claims or demands relating to insurance and all deposit accounts wherever located;

(j) **Stock.** All shares of stock or other evidence of ownership of any part of the Real Property that are owned in common with others, including all water stock relating to the Real Property, if any, and all documents or rights of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Real Property and/or the Improvements;

(k) **Sale Contracts.** All sales contracts, escrow agreements and broker's agreements concerning the sale of any or all of the Real Property and/or the Improvements, and all amendments thereto; and

(l) **Income.** All income, rents, revenues, issues, deposits, receipts, profits and proceeds, and accounts receivable generated from the use and operation, of the Real Property, the Improvements and the Collateral to which Grantor may be entitled, whether now due, past due or to become due including, without limiting the above items, all "Goods", "Accounts", "Documents", "Instruments", "Money", "Chattel Paper" and "General Intangibles", as those terms are defined in the Utah Uniform Commercial Code from time to time in effect.

The foregoing shall except and exclude any Collateral relating to each portion of Real Property that is released from the Deed of Trust from time to time by Secured Party in a recorded partial release.