

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

SN Silver Creek LLC
Attn: Wenda Scott
433 West Ascension Way, 4th Floor
SLC, UT 84123

01195081 B: 2757 P: 0339

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Rhonda Francis Summit County Recorder

09/14/2022 10:45:47 AM Fee \$40.00

By BARTLETT TITLE INSURANCE AGENCY, INC.
Electronically Recorded

SPACE ABOVE FOR RECORDER'S USE

DEED OF TRUST

This **Deed of Trust** is made this 12 day of September, 2022, by and among **HILLWOOD HOMES AT SILVER CREEK, LLC**, a Utah limited liability company, whose address is 4931 N. Hillwood, Heber City, UT 84032, as TRUSTOR, **BARTLETT TITLE INSURANCE AGENCY, INC.**, a Utah corporation, whose address is 1993 North State Street, Provo, UT 84604, as TRUSTEE, and **SN SILVER CREEK LLC**, a Utah limited liability company, whose address is 433 West Ascension Way, 4th Floor, Salt Lake City, UT 84123, as BENEFICIARY.

Pursuant to Trustor's promises, covenants, duties and obligations set forth in that certain Purchase and Sale Agreement dated September 18, 2020, by and between Trustor and Beneficiary, (the "**PSA**"), **TRUSTOR** hereby irrevocable grants and conveys to Trustee, in trust, with power of sale, the following described property located in the **County of SUMMIT, State of UTAH** (collectively, the "**Property**"):

PROPERTY ADDRESS: 6947 Woods Rose Drive, Park City, UT, 84098

LEGAL DESCRIPTION: **Lot 48, SILVER CREEK VILLAGE CENTER LOT 2 SUBDIVISION, Park City, Utah, according to the official plat thereof on file and of record in the Summit County Recorder's Office, Utah.**

PARCEL NUMBER: **SCVC-2-48**

TOGETHER, with all buildings, fixtures and other improvements thereon, and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, licenses, privileges and appurtenances thereunto belonging or pertaining, now or hereafter used or enjoyed with said property, or any part thereof; **SUBJECT, HOWEVER**, to the rights, powers and authorities hereinafter given to and conferred upon Beneficiary, including, without limitation, the right to collect and apply rents, issues, and profits;

FOR THE PURPOSE OF SECURING (1) the payment of all indebtedness, obligations and other lawful charges as set forth in, or evidenced by, the PSA and any extensions and/or renewals for modifications thereof or thereto; including, without limitation, all amounts of Advances, Deferred Payments and Down Payments (as such amounts are described and defined in the PSA); (2) the performance of each covenant, promise and agreement of Trustor set forth in this Deed of Trust; (3) the payment of such additional loans or advances as hereafter may be made by Beneficiary to Trustor or its

successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; (4) the payment of all amounts that Trustor may at any time, and from time to time in the future, owe to Beneficiary on account of bills, notes, overdrafts, renewal of notes, or otherwise; (5) the payment of all amounts expended or advanced by Beneficiary under or pursuant to the terms of this Deed of Trust, together with interest thereon as herein provided.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. PRESERVATION AND MAINTENANCE OF PROPERTY.

To keep the Property in good condition and repair; to not remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; to not commit or permit waste thereof; to not commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on the Property, Trustor further agrees:

- (a) To commence construction promptly and to pursue same with reasonable diligence to completion in accordance with plans and specifications satisfactory to Beneficiary, and
- (b) To allow Beneficiary to inspect the Property at all times.

Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

2. INSURANCE.

To provide and maintain insurance against such casualties as Beneficiary may require, in an amount, for such term, and in a company or companies satisfactory to Beneficiary, with loss payable clauses in favor of and in a form satisfactory to Beneficiary. In the event of loss or damage Trustor shall give Immediate notice to Beneficiary. Beneficiary may make proof of loss and settle and adjust all claims thereunder, applying the proceeds at its option, to reduction of the amount due hereunder, or to the restoration or repair of the property damaged. Payment of such loss may be made directly to Beneficiary. In the event of the refusal or neglect of Trustor to provide Insurance or to maintain same, or to renew same in a manner satisfactory to Beneficiary, Beneficiary may itself procure and maintain such insurance and charge the cost thereof to Trustor under the provisions of paragraph 7 hereof. Beneficiary shall not be required to accept or approve any policy of insurance or any renewal of an existing policy, which is not delivered to it prior to 30 days before the expiration date of existing coverage even though the same may be otherwise satisfactory to Beneficiary.

3. TITLE EVIDENCE.

To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

4. DEFENSE OF TITLE.

To appear in and defend any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

5. TAXES AND ASSESSMENTS.

To pay at least 10 days before delinquency all taxes and assessments affecting the Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with the Property; to pay, when due, all encumbrances, charges,

and liens on the Property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses related to this Deed of Trust.

6. PAYMENT OF INDEBTEDNESS.

That, should Trustor fail to make any payment or to do any act as herein provided, Beneficiary or Trustee, without obligation so to do, without notice to or demand upon Trustor, and without releasing Trustor from any obligation hereof, (i) may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and (ii) may pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgement of either appears to be prior or superior hereto. In exercising any such powers, Beneficiary or Trustee may incur liability and expend whatever amounts in its absolute discretion it may deem necessary therefor, including without limitation cost of evidence of title, may employ counsel, and may pay all reasonable fees.

7. REIMBURSEMENT OF EXPENDITURES.

To repay immediately and without demand all amounts expended hereunder by Beneficiary or Trustee, with interest from date of expenditure as provided for in the PSA, and the repayment thereof shall be secured hereby.

8. CONSENT REQUIRED TO TRANSFER TO AVOID DEFAULT.

To not make any voluntary transfer of the Property or any part thereof without first obtaining the written consent of the Beneficiary. Any such transfer, if the Beneficiary shall not so consent, shall constitute a default under the terms of this Deed of Trust and the PSA and Beneficiary may cause the same to be foreclosed and the Property sold according to law and the provisions hereof.

IT IS MUTUALLY AGREED:

9. CONDEMNATION.

Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting the Property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may request.

10. BENEFICIARY'S RIGHTS TO REQUEST.

At any time, and from time to time, upon written request of Beneficiary and the presentation of this Deed of Trust, without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed of Trust or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as "the person or persons entitled thereto!", and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

11. RENTS, ROYALTIES, AND PROFITS.

As additional security, Trustor hereby assigns to Beneficiary all rents, issues, royalties, and profits of the Property and of any personal property located thereon. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable. If Trustor shall default, Trustor's right to collect any of such monies shall cease and Beneficiary shall have the right, with or without taking possession of the Property or any portion thereof, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such amounts shall not in any manner affect the subsequent enforcement by Beneficiary of the rights, powers, and authorities to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Deed of Trust to any such tenancy, lease or option.

12. POSSESSION RIGHT UPON DEFAULT.

Upon default by Trustor hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, and in its own name sue or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

13. POSSESSION NOT A WAIVER OF DEFAULT.

The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the Property, and the application or release thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. FORBEARANCE NOT A WAIVER.

The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

15. TIME OF ESSENCE - NOTICE OF DEFAULT.

Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all amounts secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause the Property 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. Beneficiary also shall deposit with Trustee all documents evidencing expenditures secured hereby.

16. POWER OF SALE.

After the lapse of such time as may then be required by law following the recordation of a notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor shall sell the subject property 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 Trustor to direct the order in which portions of 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 such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the 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 fact 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 sale, including the payment of Trustee's and attorney's fees actually incurred by the Trustee and the Beneficiary; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all amounts expended under the terms hereof and the PSA, not then repaid; (4) all other amounts 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 clerk of the county in which the sale took place.

17. FORECLOSURE AS PROVIDED FOR MORTGAGES AT OPTION OF BENEFICIARY.

Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all amounts secured hereby immediately due and payable and foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including a reasonable attorney's fee in such amount as shall be fixed by the court. The purchaser of such real property at a sale under any Decree of Foreclosure shall be entitled to possession thereof, together with all rents and profits therefrom during any period of redemption.

18. APPOINTMENT OF SUCCESSOR TRUSTEE.

Beneficiary may appoint a successor Trustee at any time by filing for record in the office of the County Recorder of each county in which the Property or some part thereof is situated, a substitution of Trustee. From the time the substitution is filed for record, the new Trustee shall succeed to all the powers, duties, authority, and title of the Trustee named herein or of any successor Trustee. Each such substitution shall be executed and acknowledged and notice thereof shall be given and proof thereof made, in the manner provided by law.

19. SUCCESSORS AND ASSIGNS JOINT AND SEVERAL LIABILITY, CAPTIONS.

This Deed of Trust shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. In this Deed of Trust, whenever the text so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. The captions and headings of the paragraphs of this Deed of Trust are for convenience and are not to be used to interpret or define the provisions hereof.

20. ACCEPTANCE OF DEED OF TRUST BY TRUSTEE.

Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of a pending sale under any other Deed of Trust or of any action in which Trustor, Beneficiary or Trustee shall be a party, unless brought by Trustee.

21. APPLICABLE LAW.

This Deed of Trust shall be construed according to the laws of the State of Utah.

22. REQUEST FOR NOTICES.

The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to him at the address hereinbefore set forth.

-signature page follows-

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