

RECORDING REQUESTED BY  
MUFG UNION BANK, N.A.

AND WHEN RECORDED, MAIL TO:

MUFG UNION BANK, N.A.  
Attn: Collateral Management  
P.O. Box 65168  
Phoenix, AZ 85082-5168

**14008523 B: 11368 P: 5845 Total Pages: 7**  
**08/30/2022 11:43 AM By: salvarado Fees: \$40.00**  
Rashelle Hobbs, Recorder, Salt Lake County, Utah  
Return To: FIDELITY NATIONAL TITLE AGENCY OF UTAH, LLC (10455  
10459 SOUTH 1300 WESTSOUTH JORDAN, UT 84095

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**MODIFICATION AGREEMENT AND DECLARATION OF ADDITIONAL ADVANCE  
(SHORT FORM)**

Date: August 23, 2022

**RECITALS**

The undersigned agree that the following documents: (i) that certain Construction Loan Agreement dated December 1, 2021 (the "Loan Agreement"), executed by HOLLADAY HILLS 38, LLC, a Utah limited liability company ("Debtor" and "Trustor") and MUFG UNION BANK, N.A. ("Bank"), (ii) that certain Promissory Note Secured by Deed of Trust (Base Rate) dated December 1, 2021 in the original principal amount of \$28,731,545 (the "Original Note"), executed by Debtor in favor of Bank, and (iii) that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) dated December 1, 2021, executed by Trustor in favor of Bank, and recorded on December 6, 2021 as Instrument No. 13839858 in the Official Records of Salt Lake County, Utah ("Deed of Trust"), be and are amended upon the terms and conditions set forth in that certain Modification Agreement and Declaration of Additional Advance (Long Form) of even date herewith between Debtor, Guarantor (as defined in the Loan Agreement), and Bank (the "Modification Agreement").

The Modification Agreement is by this reference incorporated herein and made a part hereof. The Deed of Trust affects that certain real property described in Exhibit "A" attached hereto and incorporated by this reference. Capitalized terms used herein shall have the meanings given in the Modification Agreement unless otherwise defined.

**ADDITIONAL ADVANCE**

In consideration of an additional advance of Four Million Fifty-Nine Thousand One Hundred Forty and No/100 Dollars (\$4,059,140.00) pursuant to the terms of the Modification Agreement and evidenced by that certain Amended and Restated Promissory Note Secured by Deed of Trust (Base Rate) in the aggregate principal amount of Thirty-Two Million Seven Hundred Ninety Thousand Six Hundred Eighty-Five and No/100 Dollars (\$32,790,685.00) dated of even date herewith executed by Debtor in favor of Bank, Debtor declares as is set forth in the Modification Agreement that such additional advance is secured by the Deed of Trust.

## MODIFICATION OF DEED OF TRUST

It is further agreed that said Deed of Trust shall be and is hereby amended and modified as follows:

(b) Section 2.1 is hereby deleted in its entirety and replaced with the following:

"2.1 Payment of all sums at any time owing and the performance of all other obligations arising under that certain Amended and Restated Promissory Note Secured By Deed Of Trust (Base Rate) in the original principal amount of Thirty-Two Million Seven Hundred Ninety Thousand Six Hundred Eighty-Five and No/100 Dollars (\$32,790,685.00) dated August 23, 2022 executed by Holladay Hills 38, LLC, a Utah limited liability company ("Obligor") to the order of Beneficiary and any and all modifications, replacements, extensions and renewals thereof, whether hereafter evidenced by said note or otherwise (the "Debt Instrument");"

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement and Declaration of Additional Advance (Short Form) as of the date first written above.

**DEBTOR AND TRUSTOR:**

**HOLLADAY HILLS 38, LLC,**  
a Utah limited liability company

By: Van Daele Homes of Utah, Inc.,  
a Utah corporation  
its Sole Member

By: \_\_\_\_\_  
Name: Jeffrey M. Hack  
Title: President & CEO

**BENEFICIARY:**

**MUFG UNION BANK, N.A.**

By:   
Name: Andrew O'Connor  
Title: Vice President

**See Attached  
Certificate**

# California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

ORANGE

s.s.

On 8/23/22 before me, NANCY A BARAJAS - Notary Public

Name of Notary Public, Title

personally appeared ANDREW O'CONNOR

Name of Signer (1)

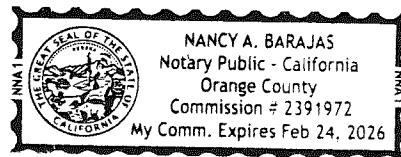
Name of Signer (2)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Nancy A Barajas  
Signature of Notary Public



Seal

## OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Modification

Agreement and Delegation of Authority  
Advance (short form)  
containing 304 pages, and dated 8/23/2022

The signer(s) capacity or authority is/~~are~~ as:

- Individual(s)
- Attorney-in-fact
- Corporate Officer(s)

VICE PRESIDENT  
Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: \_\_\_\_\_

representing: \_\_\_\_\_

Name of Person(s) Entity(ies) Signer(s) Represented

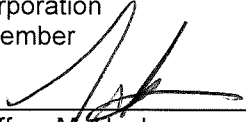
Additional Information
<b>Method of Signer Identification</b> Proved to me on the basis of satisfactory evidence: <input type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)
Notarial event is detailed in notary journal on: Page # _____ Entry # _____
Notary contact: _____
<b>Other</b> <input type="checkbox"/> Additional Signer <input type="checkbox"/> Signer(s) Thumbprints(s)
<input type="checkbox"/> _____

IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement and Declaration of Additional Advance (Short Form) as of the date first written above.

**DEBTOR AND TRUSTOR:**

**HOLLADAY HILLS 38, LLC,**  
a Utah limited liability company

By: Van Daele Homes of Utah, Inc.,  
a Utah corporation  
its Sole Member

By:   
Name: Jeffrey M. Hack  
Title: President & CEO

**BENEFICIARY:**

**MUFG UNION BANK, N.A.**

By: \_\_\_\_\_  
Name: Andrew O'Connor  
Title: Vice President

NOTARY ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Riverside )

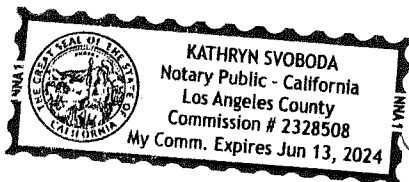
On August 23 2022, before me, Kathryn Svoboda,  
(insert name and title of the officer)

Notary Public, personally appeared Jeffrey M. Hack,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]



(Seal)

**EXHIBIT "A"**  
**DESCRIPTION OF REAL PROPERTY**

Real property situated in the City of Holladay, County of Salt Lake, State of Utah, and described as follows:

Lots 1 through 38 inclusive and Common Area Lots A and B, Royal Holladay Hills Block L Phase 2, according to the official plat thereof, filed in Book "2021P" of Plats, at Page 317 of the Official Records of the Salt Lake County Recorder.

Together with all common areas and Private Streets within said subdivision.