

**PREPARED BY AND
WHEN RECORDED RETURN TO:**

SOUND CAPITAL LOANS, LLC
929 108th Ave., Ste. 1030
Bellevue, WA 98004

176791

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

This Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (this "Deed of Trust") is made as of May 24, 2022 by Sierra Homebuilders, LLC, a Utah Limited Liability Company, whose mailing address is 470 North 2450 West Tremonton, UT 84337, as trustor (the "Trustor" or "Borrower") in favor of FCI LENDER SERVICES INC, A CALIFORNIA CORPORATION, whose address is 8180 East Kaiser Blvd, Anaheim Hills, CA 92808, as trustee (the "Trustee"), for the benefit of Sound Capital Construction Fund, LLC, a Delaware limited liability company, whose mailing address is 929 108th Ave NE, Suite 1030, Bellevue, WA 98004 as beneficiary (the "Beneficiary" or "Lender").

1. **GRANT IN TRUST.** For the purpose of securing payment and performance of the Obligations defined in Section 2, the Trustor hereby irrevocably and unconditionally grants, bargains, mortgages, sells, pledges, conveys, transfers and assigns to the Trustee, in trust, with power of sale and right of entry and possession, for the benefit of the Beneficiary, with power of sale, all estate, right, title and interest that the Trustor now has or may later acquire in and to the real property located in the County of DAVIS, State of Utah, as described in Exhibit A attached to this Deed of Trust, , having County Assessor's Parcel Number SEE EXHIBIT A (the "Land"), together with:

THE REAL PROPERTY OR ITS ADDRESS IS COMMONLY KNOWN AS Union Towns Phase 2 Part 2 Clearfield, UT 84015.

A. All existing or subsequently erected buildings, structures and improvements on the Land (the "Improvements");

B. All appurtenances, rights of way and easements used in connection with the Land;

C. All water and water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) used in connection with the Land and all shares of stock evidencing the same;

D. All existing and future leases;

E. All pumping stations, engines, pipes and ditches;

F. All oil, gas, geothermal and other mineral rights, If any, in or pertaining to the Land, and all royalty, leasehold or other rights of the Trustor pertaining to such mineral rights;

G. All goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or



any part of the Land and the Improvements, including, without limitation, all gas, electric, cooking, heating, cooling, air conditioning, refrigeration and plumbing fixtures and equipment;

H. All maps, plans, specifications, surveys, reports, data and drawings, all governmental applications, permits and licenses, and all contracts and agreements of the Trustor relating to the Land and the Improvements, including, without limitation, architectural, structural, mechanical and engineering plans and specifications, studies, data and drawings prepared for or related to the development of the Land or the construction, renovation or restoration of any of the Improvements or the extraction of minerals, sand, gravel or other valuable substances from the Land; and

I. Any and all substitutions and replacements of the foregoing, accessions thereto, and all proceeds of the foregoing, whether now existing or later acquired.

All property described in this Section 1 is herein called the "Property." This Deed of Trust is governed by Utah law as well as Utah Code Ann. § 57-1-1 et seq. and secures future advances as provided in such Sections.

2. **OBLIGATIONS SECURED.** The Trustor has granted, conveyed, transferred and assigned its interest in the Property to the Beneficiary for the purpose of securing the payment of all indebtedness and performance of the Trustor's Promissory Note of even date herewith payable to the order of the Beneficiary in the principal amount of \$3,610,000.00 as it may be modified, extended, renewed or amended from time to time, together with all refinancing(s), substitutions and renewals thereof (the "Note"), dated as of May 24, 2022. All obligations referred to in this Section 2 are herein called the "Obligations."

3. **PERFORMANCE OF OBLIGATIONS.** The Trustor shall promptly pay and perform each of the Obligations in accordance with its terms.

4. **ASSIGNMENT OF RENTS.**

A. Assignment. The Trustor hereby irrevocably, absolutely, presently and unconditionally assigns to the Beneficiary all rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (collectively, the "Rents"). This is an absolute assignment, not an assignment for security only.

B. License. The Trustor reserves a license to collect and retain the Rents as they become due and payable, so long as no Event of Default (as defined in Section 17) shall exist and be continuing. If an Event of Default has occurred and is continuing, the Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this license without notice to or demand upon the Trustor, and without regard to the adequacy of the Beneficiary's security under this Deed of Trust. After the termination of this license, any Rents received by the Trustor shall be held in trust by the Trustor for the benefit of the Beneficiary, and the Trustor shall promptly pay the Rents over to the Beneficiary.

C. Collection and Application of Rents. Subject to the license reserved to the Trustor in Subsection 4.B, the Beneficiary has the right, power and authority to collect any and all Rents. The Trustor hereby irrevocably appoints the Beneficiary as its attorney-in-fact, with full power of substitution, to perform any and all of the following acts, if and at the times when the Beneficiary in its sole discretion may so choose:



- (1) Demand, receive and enforce payment of any and all Rents; or
- (2) Give receipts, releases and satisfactions for any and all Rents; or
- (3) Sue either in the name of the Trustor or in the name of the Beneficiary for any and all Rents.

The appointment granted herein shall be deemed to be a power coupled with an interest.

D. The Beneficiary Not Responsible. Under no circumstances shall the Beneficiary have any duty to produce Rents from the Property. Regardless of whether or not the Beneficiary, in person or by agent, takes actual possession of the Property, the Beneficiary is not and shall not be deemed to be: (1) a "mortgagee in possession" for any purpose; (2) responsible for performing any of the obligations of the lessor under any lease of all or part of the Property; (3) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or (4) liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of the Property.

E. Uniform Assignment of Rents Act. The assignment of rents pursuant to this Section 4 is subject to the any Uniform Assignment of Rents Act (the "Rents Act") codified as under Utah law, as amended or re-codified from time to time, and in the event of any conflict or inconsistency between the provisions of this Article II and the provisions of the Rents Act, the provisions of the Rents Act shall control.

5. **SECURITY AGREEMENT.**

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST; PROVIDED, HOWEVER, THAT THIS DEED OF TRUST SHALL NOT SECURE THE OBLIGATIONS UNDER ANY GUARANTY EXECUTED BY ANY GUARANTOR IN FAVOR OF LENDER AND SHALL NOT SECURE THE OBLIGATIONS UNDER THE ENVIRONMENTAL INDEMNITY AGREEMENT. ANY EVENT OF DEFAULT UNDER THE RELATED DOCUMENTS SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS DEED OF TRUST.

A. Grant of Security Interest. Some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents now or hereafter constitutes personal property, the Trustor, as debtor, grants to the Beneficiary, as secured party, a security interest in all such Property and Rents, to secure payment and performance of the Obligations. This Deed of Trust constitutes a security agreement under Uniform Commercial Code, as adopted in the state of Utah (the "Uniform Commercial Code"), covering all such Property and Rents. To the extent permitted by law, Trustor and Beneficiary agree that with respect to all items of personal property which are or will become fixtures on the Land, this Deed of Trust, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of the Utah Code Ann. § 70A-1a-101 et seq. Trustor is the record owner of the Land. It is the express understanding and intent of the parties that as to any personal property interests subject to Article 9 of the UCC, Beneficiary, upon an Event of Default, may proceed under such UCC or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect to real property, as specifically permitted under Utah law and Utah Code Ann. § 70A-9a-604, and treat both real and personal property interests as one parcel or package of security.



B. Financing Statement. The Trustor shall file one or more financing statements and such other documents as the Beneficiary may from time to time require to perfect or continue the perfection of the Beneficiary's security interest in any Property or Rents. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing this Deed of Trust or the rights or obligations of the parties under it.

C. Uniform Commercial Code Remedies. The Beneficiary may exercise any or all of the remedies granted to a secured party under the Uniform Commercial Code.

D. Disposition Upon Default. Upon the occurrence of an Event of Default, the Beneficiary may dispose of any personal property separately from the sale of real property, in any manner permitted by Article 9 of the Uniform Commercial Code, including any public or private sale, or in any manner permitted by any other applicable law. Any proceeds of any such disposition shall not cure any Event of Default or reinstate any Obligation. In its discretion, the Beneficiary may also or alternatively choose to dispose of some or all of the Property, in any combination consisting of both real and personal property, together in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by the Uniform Commercial Code. The Trustor agrees that such a sale of personal property, together with real property, constitutes a commercially reasonable sale of the personal property.

6. **FIXTURE FILING**. To the extent any of the Property constitutes fixtures subject to the Uniform Commercial Code, this Deed of Trust shall also be effective as a financing statement filed as a fixture filing under the Uniform Commercial Code, covering any property which now is, or later may become, fixtures attached to the real property covered by this Deed of Trust. The parties agree that a photographic or other reproduction of this Deed of Trust shall be sufficient as a financing statement and as a fixture filing and may be filed in any appropriate office in lieu thereof to the extent permitted by law.

7. **REPRESENTATIONS AND WARRANTIES**. The Trustor represents and warrants as follows:

A. Priority. Unless otherwise consented to by the Beneficiary, the lien granted by this Deed of Trust now does and hereafter will constitute a lien of first priority.

B. Ownership. The Trustor is, and, as to Property acquired by it from time to time after the date hereof, the Trustor will be, the owner of all of the Property free from any encumbrances other than the Beneficiary's interest and lien thereon, and the Trustor shall defend the Property against any and all claims and demands of all persons at any time claiming any interest therein in any manner materially averse to the Beneficiary.

C. Power. The Trustor has full power and authority and legal right to grant a lien in the Property and to assign the Rents pursuant to this Deed of Trust. The Trustor's organizational identification number is: 84-3986724.

D. Consents. No consent of any other party (including, without limitation, creditors of the Trustor) and no consent, authorization, approval, or other action by, and no notice to or filing with, any governmental authority is required either (1) for the grant of a lien in the Property pursuant to this Deed of Trust or for the execution, delivery or performance of this Deed of Trust by the Trustor or (2) for the exercise by the Beneficiary of the rights provided for in this Deed of Trust.



E. **Grantor's Waivers.** To the fullest extent permitted by applicable law, Grantor hereby expressly waives and releases its right to plead any statute of limitations as a defense to performance of its Obligations.

G. **Full and Accurate Disclosure.** No statement of fact made by Trustor in any Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein not misleading. There is no material fact presently known to Borrower that has not been disclosed to Lender which adversely affects, or, as far as Borrower can foresee, might have a Material Adverse Effect. All financial data, including the statements of cash flow and income and operating expense, that have been delivered to Lender in respect of Borrower, Guarantor and the Property (i) are true, complete and correct in all material respects, (ii) accurately represent the financial condition of Borrower, Guarantor and the Property as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Borrower has no contingent liabilities, liabilities for Taxes, unusual forward or long-term commitments, unrealized or anticipated losses from any unfavorable commitments or any liabilities or obligations not expressly permitted by this Agreement. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower, Guarantor or the Property from that set forth in said financial statements.

8. **PROTECTION OF THE PROPERTY; INSPECTIONS.** The Trustor will take reasonable efforts in good faith, at all times, to protect the Property against damage or loss. The Trustor shall maintain, keep and preserve the Property in good condition and repair, shall not commit or permit waste of the Property and shall not remove, demolish or substantially alter any of the Improvements. The Trustor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property and the Improvements. The Beneficiary or its agent may make reasonable entries upon the Property and may make inspections and tests of the Property as the Beneficiary deems appropriate to determine the Trustor's compliance with this Deed of Trust. Any inspections or tests made by the Beneficiary shall be for the Beneficiary's purposes only and shall not be construed to create any responsibility or liability on the part of the Beneficiary to the Trustor or to any other person.

9. **INSURANCE.** The Trustor will also insure the Property against such hazards and in such amounts as the Beneficiary may reasonably require, under policies containing endorsements naming the Beneficiary as Lender loss payee and prohibiting any cancellation or material revision in such policies without 30 days' prior written notice to the Beneficiary. This Deed of Trust constitutes (and the Trustor acknowledges receipt of) written notice to the Trustor that the accommodations made available to the Trustor by the Beneficiary is not conditioned on the requirement that the Trustor procure insurance from any insurance company designated by the Beneficiary. However, such insurance policies shall be written by insurance companies acceptable to the Beneficiary.

10. **DAMAGES AND INSURANCE AND CONDEMNATION PROCEEDS.** The Trustor absolutely and irrevocably assigns to the Beneficiary, all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use that affects all or part of the Property or any interest in it, and all proceeds of any insurance policies payable because of loss sustained to all or part of the Property or any interest in it, and all proceeds of any insurance policies payable because of loss



sustained to all or part of the Property up to a maximum amount of the Obligations secured by the Note herein, not to exceed \$3,610,000.00 MERGEFORMAT, less reductions of payments made by the Trustor up to the date of such loss or condemnation. Said amount shall be the then existing principal balance at the time of the loss or condemnation. The Trustor shall immediately notify the Beneficiary in writing if any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property. If the Beneficiary chooses to do so, it may in its own name appear in or prosecute any action or proceeding with respect to injury or loss to all or part of the Property, and it may make any compromise or settlement of such action or proceeding.

The Trustor hereby appoints the Beneficiary as its attorney-in-fact, with full power of substitution, to perform the foregoing acts. The appointment granted herein shall be deemed to be a power coupled with an interest. The Beneficiary, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and may join the Trustor in adjusting any loss covered by insurance. All proceeds of such awards of damages and other compensation and insurance proceeds shall be paid to the Beneficiary. Any such proceeds received by the Trustor shall be held in trust by the Trustor for the benefit of the Beneficiary, and the Trustor shall promptly pay the proceeds over to the Beneficiary. The Beneficiary shall apply those proceeds first toward reimbursement of all of the Beneficiary's costs and expenses of recovering the proceeds, including attorneys' fees. The remaining proceeds shall either be applied to the reduction of the Obligations or to the repair or restoration of the Property, as the Beneficiary may elect. If the Beneficiary elects to apply the proceeds to restoration or repair, the Trustor shall repair or replace the damaged or destroyed Property in a manner satisfactory to the Beneficiary. Notwithstanding anything contained in this Section 10 or this Deed of Trust to the contrary, Beneficiary may, in its sole discretion, elect to (y) apply the net proceeds of any condemnation award (after deduction of Beneficiary's reasonable costs and expenses, if any, in collecting the same) in reduction of the Obligations in such order and manner as Beneficiary may elect, whether due or not, or (z) make the proceeds available to Trustor for the restoration or repair of the Property. Any implied covenant in this Deed of Trust restricting the right of Beneficiary to make such an election is waived by Trustor. If the net proceeds of the condemnation award are made available to Trustor for restoration or repair, the net proceeds of the condemnation award shall be disbursed upon reasonable satisfaction of and in accordance with the terms and conditions set forth in this Section 10.

11. TAX AND OTHER LIENS. The Trustor shall pay promptly when due all taxes, assessments and governmental charges or levies imposed upon the Property, all utility charges for the Property and all claims (including claims for labor, materials and supplies) against the Property, except to the extent the validity thereof is being contested in good faith and the Trustor provides the Beneficiary with such cash deposit, surety bond or other security satisfactory to the Beneficiary that is sufficient to discharge the contested tax, assessment, charge, levy or claim.

12. EXPENDITURES BY THE BENEFICIARY. If the Trustor fails to comply with any provision of this Deed of Trust, or if any action or proceeding is commenced that would materially affect the Beneficiary's interests in the Property, the Beneficiary on the Trustor's behalf may, but shall not be required to, take any action that the Beneficiary deems appropriate. Any amount that the Beneficiary expends in so doing shall be payable on demand, shall be secured by this Deed of Trust and shall bear interest at the highest rate charged under any of the Obligations from the



date incurred or paid by the Beneficiary to the date of repayment by the Trustor.

13. **FURTHER ASSURANCES.** The Trustor agrees that at any time and from time to time at its expense, the Trustor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Beneficiary deems appropriate or advisable, in order to preserve and protect the lien granted in this Deed of Trust or to enable the Beneficiary to exercise and enforce its rights and remedies under this Deed of Trust and the Loan Documents.

14. **HAZARDOUS SUBSTANCES.** The Trustor has no knowledge of the presence, use, disposal, storage or release of any Hazardous Substances on or in the Property, whether by the Trustor or any prior owners or occupants of the Property, or any underground storage tanks located on the Property. The Trustor shall not cause or permit the presence, use, disposal, storage or release of any Hazardous Substances on or in the Property, except as permitted by Environmental Law. The Trustor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The Trustor shall promptly give the Beneficiary written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which the Trustor has knowledge. If the Trustor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, the Trustor shall promptly take all necessary remedial actions in accordance with Environmental Law. "Hazardous Substances" means those substances defined as toxic or hazardous substances by Environmental Law, together with gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. "Environmental Law" means federal, state and local laws, regulations and ordinances that relate to health, safety or environmental protection. The Trustor agrees to indemnify, protect, defend and hold the Beneficiary harmless for, from and against any and all expenses, damages and costs and consequential damages incurred by the Beneficiary, including, without limitation, attorneys' fees, as a result of any Hazardous Substances on the Property, the failure of the Property to comply with any Environmental Law, or the presence of underground storage tanks on the Property at any time, even if such expenses, damages and costs shall be incurred by the Beneficiary after acquisition of the Property by the Beneficiary or a purchaser through foreclosure, Trustee's sale or deed in lieu of foreclosure. The foregoing indemnification and hold harmless provision shall survive payment in full of the Obligations.

15. **SUBSTITUTION OF THE TRUSTEE.** From time to time, the Beneficiary may remove the Trustee and appoint a successor Trustee to any Trustee appointed under this Deed of Trust. A Notice of Substitution of the Trustee shall be executed and recorded in accordance with applicable law.

16. **TRANSFER OF PROPERTY.** A "Transfer" means any sale, contract to sell, conveyance, encumbrance, lease or other transfer of all or any material part of the Property or any interest in it, whether voluntary, involuntary, by operation of law or otherwise. If the Trustor is a corporation, a "Transfer" also means any transfer or transfers of shares constituting, in the aggregate, more than twenty percent (20%) of the voting power. If the Trustor is a partnership, a "Transfer" also means withdrawal or removal of any general partner, dissolution of the partnership under applicable law, or any transfer or transfers of, in the aggregate, more than twenty percent (20%) of the partnership interests. The Trustor acknowledges that the



Beneficiary is entering into the transactions constituting the Obligations in reliance on the expertise, skill and experience of the Trustor. Thus, the Obligations include material elements similar in nature to a personal service contract. In consideration of the Beneficiary's reliance, the Trustor agrees that the Trustor shall not make any Transfer, unless the transfer is preceded by the Beneficiary's express written consent to the particular transaction and transferee. The Beneficiary may withhold such consent in its sole discretion. If any Transfer occurs, the Beneficiary in its sole discretion may declare all of the Obligations to be immediately due and payable, and the Beneficiary and the Trustee may invoke any rights and remedies provided in this Deed of Trust or by applicable law.

17. **EVENTS OF DEFAULT.** As used in this Deed of Trust, the term "Event of Default" shall include any default or Event of Default described in the Note, the Agreement and the Loan Documents as applicable, or any breach or default of any provision of this Deed of Trust.

18. **REMEDIES.** At any time after an Event of Default, the Beneficiary shall be entitled to invoke any and all rights and remedies described in this Section or permitted by applicable law. All such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

A. The Beneficiary may declare any or all of the Obligations to be due and payable immediately. However, all of the Obligations shall automatically be due and payable in full if a voluntary or involuntary petition shall be filed by or against the Trustor under the United States Bankruptcy Code or similar statute, or a receiver, trustee, assignee for the benefit of creditors or other similar official shall be appointed to take possession, custody or control of the properties of the Trustor.

B. The Beneficiary may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property. In addition, the Beneficiary shall have the right to appoint a receiver when permitted under Utah law including, without limitation, Utah Code Ann. § 78B-21-101 et seq.

C. To the extent permitted by applicable law, the Beneficiary, in person, by agent or by court appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that the Beneficiary in its sole discretion may consider necessary and appropriate to protect the security of this Deed of Trust.

D. With respect to all or any part of the Real Property, the Trustee shall have the right to foreclose by notice and sale. The Beneficiary may request the Trustee to exercise the power of sale granted in this Deed of Trust. Before any Trustee's sale, the Beneficiary or the Trustee shall give such statement of breach or nonperformance and notice of sale as may then be required by applicable law. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, the Trustee shall sell the Property being sold at a public auction to be held at the time and place specified in the notice of sale. Neither the Trustee, nor the Beneficiary, shall have any obligation to make demand on the Trustor before any Trustee's sale. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may in its discretion, give a new



notice of sale. At any Trustee's sale, the Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States. The Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property being sold without any covenant or warranty whatsoever, express or implied. Any such deed shall be conclusive evidence in favor of purchasers or encumbrancers for value and without notice, that all requirements of law were met relating to the exercise of the power of sale and the Trustee's sale of the Property conveyed by such deed. Knowledge of the Trustee shall not be imputed to the Beneficiary. At any Trustee's sale, any person, including the Trustor, the Trustee or the Beneficiary, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for that Property, the Beneficiary shall have the benefit of any law permitting credit bids. The Beneficiary and the Trustee shall apply the proceeds of any Trustee's sale in the following manner: (1) to pay all costs and expenses of exercising the power of sale and of sale, including, without limitation, the Trustee's fees and attorneys' fees actually incurred; (2) to pay the Obligations secured by this Deed of Trust; and (3) to remit the remainder, if any, to the person or persons entitled to it.

E. The Beneficiary may bring an action in any court of competent jurisdiction to foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages on real property or to obtain specific enforcement of any of the covenants or agreements in this Deed of Trust. If the Beneficiary brings such an action, the Trustor agrees to pay the Beneficiary's attorneys' fees as set by the court (and not a jury) and court costs. Beneficiary has the right to appear in and defend any action or proceeding brought with respect to the Trust Property and to bring any action or proceeding, in the name and on behalf of Beneficiary or Trustor, which Beneficiary, in its sole discretion, decides should be brought to protect its interest in the Trust Property. Beneficiary shall, at its option, be subrogated to the lien of any mortgage or other security instrument discharged in whole or in part by the Debt, and any such subrogation rights shall constitute additional security for the payment of the Debt.

F. The Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Deed of Trust, including, without limitation, costs of title evidence and all costs of collection, including, without limitation, all attorneys' fees and costs, whether or not suit is filed, and all costs of suit and preparation for suit (including but not limited to fees and costs prior to and at any arbitration, any mediation, or at trial, on appeal, in connection with any discretionary review, or in any bankruptcy proceeding). Beneficiary shall have the right of entry and the right to perform Trustor's obligations. In addition to any other rights or remedies granted under this Security Instrument, Beneficiary and its agents, shall have the right to enter and inspect the Trust Property at any reasonable time during the term of this Security Instrument. The cost of such inspections or audits shall be borne by Trustor should Beneficiary determine that an Event of Default exists, including the cost of all follow up or additional investigations or inquiries deemed reasonably necessary by Beneficiary. The cost of such inspections, if not paid for by Trustor following demand, may be added to the principal balance of the sums due under the Note and this Security Instrument and shall bear interest thereafter until paid at the Default Rate

G. Upon the occurrence of an Event of Default under this Deed of Trust, Beneficiary, pursuant to the appropriate provisions of the Uniform Commercial Code, shall have an option to proceed with respect to both the real property portion of the Property and the personal property in accordance with its rights, powers and remedies with respect to such real property, in which event the default provisions of the Uniform Commercial Code shall not apply. Such option shall



be revocable by Beneficiary as to all or any portion of the personal property at any time prior to the sale of the remainder of the Property. In such event Beneficiary shall designate Trustee to conduct the sale of the personal property in combination with the sale of the remainder of the Property. Should Beneficiary elect to sell the personal property or any part thereof which is real property or which Beneficiary has elected to treat as real property or which may be sold together with the real property as provided above, Beneficiary or Trustee shall give such notice of default and election to sell as may then be required by law. The parties agree that if Beneficiary shall elect to proceed with respect to any portion of the personal property separately from such real property, five (5) days' notice of the sale of the personal property shall be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Beneficiary shall include, but not be limited to, reasonable attorneys' fees, costs and expenses, and other expenses incurred by Beneficiary.

In addition, Beneficiary shall have the right to appoint a receiver when permitted under Utah Code Ann. § 78B-21-101 et seq.. The receiver shall have all of the rights and powers to the fullest extent permitted by law. The receiver shall have the right to apply Rents to cleanup, remediation or other response actions concerning the release or threatened release of Hazardous Substances, whether or not such actions are pursuant to an order of any federal, state or local governmental agency.

19. **REINSTATEMENT.** In the event of reinstatement of the Obligations secured by this Deed of Trust in accordance with applicable law after an Event of Default, the Trustee shall record a Cancellation of Notice of Sale. Reinstatement after an Event of Default shall not constitute a waiver of any Event of Default then existing or subsequently occurring, nor impair the right of the Beneficiary to declare other Events of Default or the right to cause the Trustee to record a Notice of Sale, nor otherwise affect this Deed of Trust or any other instrument or document relating to the Obligations or any of the rights, obligations or remedies of the Beneficiary or the Trustee in this Deed of Trust or any other instrument or document relating to the Obligations.

20. **TIME OF ESSENCE.** Time is of the essence in each provision of this Deed of Trust.

21. **NO WAIVER.** No failure on the part of the Beneficiary to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the Beneficiary or any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

22. **NOTICES.** Unless otherwise required by applicable law, any notices or consents required or permitted by this Deed of Trust shall be in writing and shall be deemed delivered if delivered in person or if sent by certified mail, postage prepaid, return receipt requested, or by fax, to the Trustor or the Beneficiary at the addresses set forth above.

23. **WAIVER OF JURY TRIAL; APPLICABLE LAW.** LENDER, BORROWER, AND GRANTOR HEREBY WAIVE THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER LENDER OR GRANTOR [OR BORROWER] AGAINST THE OTHER. IF THERE IS A LAWSUIT, GRANTOR [AND BORROWER], AT LENDER'S OPTION, AGREE TO SUBMIT TO THE JURISDICTION OF THE COUNTY WHERE THE PROPERTY IS LOCATED. The laws of the State of Utah shall govern the construction of this Deed of Trust and the rights and remedies of the parties hereto.



24. **BINDING EFFECT AND ENTIRE AGREEMENT.** This Deed of Trust shall inure to the benefit of, and shall be binding on, the Beneficiary and its successors and assigns and the Trustor and its heirs, personal representatives, successors and permitted assigns. This Deed of Trust, together with all other documents evidencing or securing the Obligations, constitutes the entire agreement between the Beneficiary and the Trustor.

25. **AMENDMENTS; CONSENTS.** No amendment, modification, supplement, termination, or waiver of any provision of this Deed of Trust, and no consent to any material departure by the Trustor therefrom, may in any event be effective unless in writing signed by the Beneficiary, and then only in the specific instance and for the specific purpose given.

26. **SEVERABILITY & CONSTRUCTION.** If any provision of this Deed of Trust shall be held invalid under any applicable law, such invalidity shall not affect any other provision of this Deed of Trust that can be given effect without the invalid provision, and, to this end, the provisions of this Deed of Trust are severable. The language of this Note shall be construed as a whole according to its fair meaning. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." No inference in favor of, or against, Maker or Lender shall be drawn from the fact that one party has drafted any portion hereof. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be applied to the Interpretation of this Note.

27. **WAIVER OF EXEMPTIONS.** The Trustor abandons and waives any applicable exemption and homestead rights to the fullest extent permitted by applicable law.

28. **TRUSTEE PROVISIONS.** From time to time upon written request of Beneficiary and presentation of this Deed of Trust for endorsement and without affecting the personal liability of any person for payment of the Obligations or performance of the Obligations, Trustee may, without liability therefor and without notice, (i) reconvey all or any part of the Property; (ii) consent to the making of any map or plat thereof; (iii) join in granting any easement thereon; (iv) join in any declaration of covenants and restrictions; or (v) join in any extension agreement or any agreement subordinating the lien or charge hereof. Trustee or Beneficiary may from time to time apply in any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Beneficiary may obtain orders or decrees directing or confirming or approving acts in the execution of such trusts and the enforcement of such remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding unless held or commenced and maintained by Trustee under this Deed of Trust. Trustor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the enforcement of the trusts created hereunder, including reasonable attorneys' fees. Trustor shall indemnify Trustee and Beneficiary against all losses, claims, demands and liabilities which either may incur, suffer or sustain in the execution of the trusts created hereunder or in the performance of any act required or permitted hereunder or by law.



IN WITNESS WHEREOF, the Trustor has caused this Deed of Trust to be executed as of the date first above written.

TRUSTOR:

Sierra Homebuilders, LLC, a Utah Limited Liability Company

By: [Signature]
L. Boyd Cook
Its: Authorized Representative

ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF Box Elder) ss.

This instrument was acknowledged before me on 26 May, 2022 by L. Boyd Cook, as CFO of Sierra Homebuilders, LLC, a Utah Limited Liability Company.

Taken, subscribed and sworn to before the undersigned authority in Box Elder County, State of Utah

[Signature]
Signature of notarial officer

(Notary Seal)

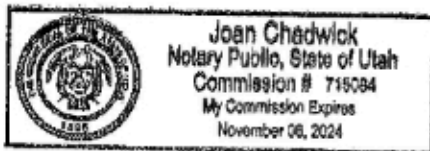


EXHIBIT A
[Legal Description]

Units 109-131, THE UNION TOWNHOMES PUD, according to the official plat thereof on file and of record in the office of the DAVIS County Recorder.

APN's:

| | |
|--|-------------|
| 452 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0109 |
| 454 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0110 |
| 456 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0111 |
| 458 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0112 |
| 460 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0113 |
| 464 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0114 |
| 468 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0115 |
| 472 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0116 |
| 476 EAST DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0117 |
| 678 SOUTH DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0118 |
| 680 SOUTH DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0119 |
| 682 SOUTH DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0120 |
| 684 SOUTH DEPOT STREET, CLEARFILED, UT 84015 | 15-054-0122 |
| 474 EAST 625 SOUTH, CLEARFILED, UT 84015 | 15-054-0123 |
| 470 EAST 625 SOUTH, CLEARFILED, UT 84015 | 15-054-0124 |
| 466 EAST 625 SOUTH, CLEARFILED, UT 84015 | 15-054-0125 |
| 462 EAST 625 SOUTH, CLEARFILED, UT 84015 | 15-054-0126 |
| 463 EAST 690 SOUTH, CLEARFILED, UT 84015 | 15-054-0127 |
| 461 EAST 690 SOUTH, CLEARFILED, UT 84015 | 15-054-0128 |
| 459 EAST 690 SOUTH, CLEARFILED, UT 84015 | 15-054-0129 |
| 457 EAST 690 SOUTH, CLEARFILED, UT 84015 | 15-054-0130 |
| 455 EAST 690 SOUTH, CLEARFILED, UT 84015 | 15-054-0130 |
| 453 EAST 690 SOUTH, CLEARFILED, UT 84015 | 15-054-0131 |

