



2016-007874  
Klamath County, Oregon  
07/26/2016 11:23:58 AM  
Fee: \$192.00

RECORDATION REQUESTED BY:

Washington Federal  
Bend Bluff Commercial Lending  
572 SE Bluff Drive, Suite 110  
Bend, OR 97702  
Attn: Stacy M. Hart

WHEN RECORDED MAIL TO:

Washington Federal  
Bend Bluff Commercial Lending  
572 SE Bluff Drive, Suite 110  
Bend, OR 97702  
Attn: Stacy M. Hart

Loan #: 62760720508

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

RECORDED BY WASHINGTON FEDERAL, A NATIONAL BANKING ASSOCIATION

Recorded by Washington Federal, a National Banking Association, pursuant to ORS 93.7809.

**LINE OF CREDIT INSTRUMENT**

The maximum principal amount to be advanced pursuant to the credit agreement (Note) is \$25,000,000.00. The maturity date of the credit agreement (exclusive of any extension or renewal options) is as set forth in the Note, but no later than July 1, 2027. The maximum principal amount to be advanced pursuant to the credit agreement may be exceeded by advances to complete construction pursuant to ORS 86.155(2) (c).

**This Deed of Trust Constitutes a Construction Mortgage as defined in ORS 79.0334.**

This MASTER DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Deed of Trust"), effective as of June 15, 2016, by and among Pahlisch Homes, Inc., an Oregon corporation ("Pahlisch Homes"), Pahlisch Homes at Arden Village, LP, an Oregon limited partnership ("Arden Village"), Pahlisch Homes at Bailey Ridge Limited Partnership, an Oregon limited partnership ("Bailey Ridge"), Pahlisch Homes at Bella Vista Heights Limited Partnership, an Oregon limited partnership ("Bella Vista Heights"), Pahlisch Homes at Emerald Valley Limited Partnership, an Oregon limited partnership ("Emerald Valley"), Pahlisch Homes at Foothills View Limited Partnership, an Oregon limited partnership ("Foothills View"), Pahlisch Homes at McCall Landing Limited Partnership, an Oregon limited partnership ("McCall Landing"), Pahlisch Homes at Ochoco Pointe Limited Partnership, an Oregon limited partnership ("Ochoco Pointe"), Pahlisch Homes at Parkland Limited Partnership, an Oregon limited partnership ("Parkland"), Pahlisch Homes at Pheasant Run

Limited Partnership, an Oregon limited partnership ("**Pheasant Run**"), Pahlisch Homes at Sky Ridge Limited Partnership, an Oregon limited partnership ("**Sky Ridge**"), Pahlisch Homes at Triple Ridge, LLC, an Oregon limited liability company ("**Triple Ridge**"), and Pahlisch Homes at Reserve Golf Fairway, LLC, an Oregon limited liability company ("**Reserve Golf Fairway**"), (Pahlisch Homes, Arden Village, Bailey Ridge, Bella Vista Heights, Emerald Valley, Foothills View, McCall Landing, Ochoco Pointe, Parkland, Pheasant Run, Sky Ridge, Triple Ridge and Reserve Golf Fairway are collectively referred to herein as "**Grantor**"), whose address for notice is 210 SW Wilson Ave Suite 100, Bend, Or 97702, to the Trustee named below, for the use and benefit of Washington Federal, a National Banking Association ("**Beneficiary**"), whose address is 572 SE Bluff Drive, Suite 110, Bend, OR 97702.

#### ARTICLE 1 Definitions

The following words shall have the following meanings when used in this Deed of Trust. Terms not otherwise defined in this Deed of Trust and defined therein shall have the meanings attributed to such terms in the Uniform Commercial Code as now or hereafter in effect. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Beneficiary:** Washington Federal, a National Banking Association, and its successors and assigns. Washington Federal, a National Banking Association, is also referred to herein as "**Lender.**"

**Construction Contracts:** Any and all contracts, subcontracts, and agreements, written or oral, between Grantor and any other party, and between parties other than Grantor, in any way relating to the construction of the Improvements on the Land or the supplying of material (specifically fabricated or otherwise), labor, supplies, or other services therefor.

**Contracts:** All of the right, title, and interest of Grantor in, to, and under any and all (i) contracts for the purchase of all or any portion of the Mortgaged Property, whether such Contracts are now or at any time hereafter existing, including but without limitation, any and all earnest money or other deposits escrowed or to be escrowed or letters of credit provided or to be provided by the purchasers under the Contracts, including all amendments and supplements to and renewals and extensions of the Contracts at any time made, and together with all payments, earnings, income, and profits arising from sale of all or any portion of the Mortgaged Property or from the Contracts and all other sums due or to become due under and pursuant thereto and together with any and all earnest money, security, letters of credit or other deposits under any of the Contracts; (ii) contracts, licenses, permits, and rights relating to living unit equivalents for water, wastewater, and other utility services whether executed, granted, or issued by a private person or entity or a governmental or quasi-governmental agency, which are directly or indirectly related to, or connected with, the development of the Mortgaged Property, whether such contracts, licenses, and permits are now or at any time thereafter existing, including without limitation, any and all rights of living unit equivalents with respect to water, wastewater, and other utility services, certificates, licenses, zoning variances, permits, and no-action letters from each Governmental Authority required: (a) to evidence compliance by Grantor and all improvements constructed or to be constructed on the Mortgaged Property with all legal requirements applicable to the Mortgaged Property, (b) for the construction of any improvements on the Mortgaged Property

(including, without limitation, the Construction Contracts), and (c) to develop or operate the Mortgaged Property as a commercial and/or residential project; (iii) any and all right, title, and interest Grantor may have in any financing arrangements relating to the financing of or the purchase of all or any portion of the Mortgaged Property by future purchasers; (iv) all plans, specifications, and drawings prepared for the Mortgaged Property; and (v) all other contracts which in any way relate to the design, use, enjoyment, occupancy, operation, maintenance, or ownership of the Mortgaged Property, including but not limited to engineering contracts, architectural contracts, maintenance agreements, management agreements and service contracts, together with all amendments and supplements to and renewals and extensions of such contracts at any time made, and together with all rebates, refunds or deposits, and all other sums due or to become due under and pursuant thereto and together with all powers, privileges, options and other benefits of Grantor under such contracts.

**Fixtures:** All materials, supplies, equipment, systems, apparatus, and other items now owned or hereafter acquired by Grantor and now or hereafter attached to, installed in, or used in connection with (temporarily or permanently) any of the Improvements or the Land, which are now owned or hereafter acquired by Grantor and are now or hereafter attached to the Land or the Improvements, and including but not limited to any and all partitions, dynamos, window screens and shades, draperies, rugs and other floor coverings, awnings, motors, engines, boilers, furnaces, pipes, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, swimming pools, heating, ventilation, refrigeration, plumbing, laundry, lighting, generating, cleaning, waste disposal, transportation (of people or things, including but not limited to, stairways, elevators, escalators, and conveyors), incinerating, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, and all other utilities whether or not situated in easements, together with all accessions, appurtenances, replacements, betterments, and substitutions for any of the foregoing and the proceeds thereof.

**Grantor:** The individual or entity described as Grantor in the initial paragraph of this Deed of Trust and the Supplemental Deed of Trust and any and all subsequent owners of the Mortgaged Property or any part thereof (without hereby implying Beneficiary's consent to any sale or transfer of the Mortgaged Property).

**Governmental Authority:** The United States of America, the State, the County, the City, or any other political subdivision in which the Mortgaged Property is located, and any other political subdivision, agency, or instrumentality exercising jurisdiction over Grantor, Guarantor, or the Mortgaged Property, including, without limitation, entities with jurisdiction over building, health, safety, fire, water, use, zoning and environmental laws, codes, ordinances, rules and regulations.

**Guarantor.** Any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements:** The single family residences to be constructed by Grantor upon Lots, as more particularly described in the Plans, together with any and all buildings, residences, garages, open parking areas, walkways, driveways, structures and other improvements, and any and all additions, alterations, betterments or appurtenances thereto, now or at any time hereafter situated, placed, or constructed upon the Land or any part thereof.

**Indebtedness:** (i) The principal of, interest on, or other sums evidenced by each Note or the Loan Documents pertaining thereto; (ii) any other amounts, payments, or premiums payable under the Loan Documents; (iii) such additional sums, with interest thereon, as may hereafter be borrowed from Beneficiary, its successors or assigns, by the then record owner of the Mortgaged Property, when evidenced by a promissory note which, by its terms, is secured hereby (it being contemplated by Grantor and Beneficiary that such future indebtedness may be incurred); and (iv) any and all other indebtedness, obligations, and liabilities of any kind or character of the Grantor to Beneficiary, now or hereafter existing, absolute or contingent, due or not due, arising by operation of law or otherwise, or direct or indirect, primary or secondary, joint, several, joint and several, fixed or contingent, secured or unsecured by additional or different security or securities, including indebtedness, obligations, and liabilities to Beneficiary of the Grantor as a member of any partnership, joint venture, trust or other type of business association, or other group, and whether incurred by Grantor as principal, surety, endorser, guarantor, accommodation party or otherwise (it being contemplated by Grantor and Beneficiary that Grantor may hereafter become indebted to Beneficiary in further sum or sums).

**Land:** The real property described in each Supplemental Deed of Trust, which shall consist of a Lot or Lots, together with all right, title, interest and privileges of Grantor in and to (a) all streets, ways, road, alleys, easements, rights-of-way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or proposed, abutting, adjacent, used in connection with or pertaining to such real property or the improvements thereon; (b) any strips or gores of real property between such real property and abutting or adjacent properties; (c) all water and water rights, timber, crops, pertaining to such real property; and (d) all appurtenances and all reversions and remainders in or to such real property.

**Lender:** Washington Federal, a National Banking Association, and its successors and assigns. Washington Federal, a National Banking Association, is also referred to herein as "Beneficiary."

**Leases:** Any and all leases, master leases, subleases, licenses, concessions, or other agreements (written or oral, now or hereafter in effect) which grant to third parties a possessory interest in and to, or the right to use, all or any part of the Mortgaged Property, together with all security and other deposits or payments made in connection therewith.

**Lot:** A single platted and subdivided portion of real property, described as the Land in any Supplemental Deed of Trust, within a single family residential subdivision upon which a single Improvement is to be, has been or is in the process of being, constructed, together with all right, title, interest and privileges of Grantor in and to said Lot.

**Loan Agreement:** That certain Master Loan Agreement by and between Grantor and Beneficiary, as lender, described in each Supplemental Deed of Trust, governing the credit facility evidenced by the Note and secured by this Deed of Trust and each Supplemental Deed of Trust, together with any amendments, addenda, extensions, supplements, renewals, replacements or restatements thereof or therefor.

**Loan Documents:** The Note, this Deed of Trust, the Supplemental Deeds of Trust, the Loan Agreement, any guaranty, and any and all other documents now or hereafter executed by the Grantor, Guarantor, Loan Party, or any other person or entity (a "**Person**") in connection with the



loan evidenced by the Note or in connection with the payment of the Indebtedness or the performance and discharge of the Obligations.

**Loan Party or Loan Parties:** Grantor, each Guarantor, and each Person providing any collateral security for the Indebtedness and Obligations and each Person signing any Loan Document.

**Minerals:** All substances in, on, or under the Land which are now, or may become in the future, intrinsically valuable, that is, valuable in themselves, and which now or may be in the future enjoyed through extraction or removal from the property, including without limitation, oil, gas, and all other hydrocarbons, coal, lignite, carbon dioxide and all other nonhydrocarbon gases, uranium and all other radioactive substances, and gold, silver, copper, iron and all other metallic substances or ores.

**Note:** That certain promissory note from Grantor to Lender described in each Supplemental Deed of Trust referencing this Deed of Trust, and any and all renewals, modifications, rearrangements, reinstatements, enlargements or extensions of said Note or any promissory note or notes given in renewal, substitution or replacement therefor.

**Note Rate.** The rate of interest from time to time payable under the Note.

**Obligations:** Any and all of the covenants, conditions, warranties, representations, and other obligations (other than to repay the Indebtedness) made or undertaken by Grantor, Guarantor, or a Loan Party to Beneficiary, Trustee, or others as set forth in the Loan Documents, the Leases, and in any deed, lease, sublease, or other form of conveyance, or any other agreement pursuant to which Grantor is granted a possessory interest in the Land.

**Personal Property.** All of the right, title, and interest of Grantor in and to (i) furniture, furnishings, equipment, machinery, goods (including, but not limited to, crops, farm products, timber and timber to be cut, and extracted Minerals); (ii) general intangibles, money, insurance proceeds, accounts, contract and subcontract rights, trademarks, tradenames, inventory; (iii) all refundable, returnable, or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Grantor with any governmental agencies, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable, or reimbursable tap fees, utility deposits, commitment fees and development costs, any awards, remunerations, reimbursements, settlements, or compensation heretofore made or hereafter to be made by any Governmental Authority pertaining to the Land, Improvements, Fixtures, Contracts, or Personal Property, including but not limited to those for any vacation of, or change of grade in, any streets affecting the Land or the Improvements and those for municipal utility district or other utility costs incurred or deposits made in connection with the Mortgaged Property; and (iv) all other personal property of any kind or character as defined in and subject to the provisions of the Uniform Commercial Code; any and all of which are now owned or hereafter acquired by Grantor, and which are now or hereafter situated in, on, or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, construction, financing, use, occupancy, or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use in or on the Land or the Improvements or arising out of or related to the Land or Improvements, together with all accessions, replacements, and substitutions thereto or therefor and the proceeds thereof.

**Plans:** Any and all plans, specifications, shop drawings and other technical descriptions for construction of the Improvements on the Land, and all supplements thereto and amendments and modifications thereof.

**Mortgaged Property:** The Land, Minerals, Fixtures, Improvements, Personal Property, Contracts, Leases and Rents, and any interest of Grantor now owned or hereafter acquired in and to the Land, Minerals, Fixtures, Improvements, Personal Property, Contracts, Leases and Rents, together with any and all other security and collateral of any nature whatsoever, now or hereafter given for the repayment of the Indebtedness or the performance and discharge of the Obligations. As used in this Deed of Trust, the term Mortgaged Property shall be expressly defined as meaning all or, where the context permits or requires, any portion of the above and all or, where the context permits or requires, any interest therein.

**Rents:** All of the rents, revenues, income, proceeds, profits, security and other types of deposits (after Grantor acquires title thereto), and other benefits paid or payable by parties to the Contracts and/or Leases, other than Grantor for using, leasing, licensing, possessing, operating from, residing in, selling, or otherwise enjoying all or any portion of the Mortgaged Property, together with any and all rights and claims of any kind which Grantor may have against any lessee under any Lease or any subtenants or occupants of the Mortgaged Property.

**Supplemental Deed of Trust:** Any short form deed of trust recorded pursuant to ORS 93.790 and ORS 93.802, which incorporates provisions of this Deed of Trust.

**Trustee:** Any trustee named in a Supplemental Deed of Trust.

## ARTICLE 2

### Cross-Default and Cross-Collateralization

2.1 **Cross-Default.** Grantor acknowledges and agrees that any Event of Default under any of the Supplemental Deeds of Trust or any of the Loan Documents relating to the Note shall constitute an Event of Default under all of the Supplemental Deeds of Trust and all of the Loan Documents relating to the Note, upon Beneficiary's election.

2.2 **Cross-Collateralization.** Grantor upon execution of a Supplemental Deed of Trust acknowledges and agrees that the liens, assignments, pledges and security interests of each of the Supplemental Deeds of Trust shall secure the Indebtedness, which includes (without limitation) the Note, and any and all renewals, increases, modifications, rearrangements and extensions of the Note and each Supplemental Deed of Trust. Grantor acknowledges and agrees that any and all collateral under each of the Supplemental Deeds of Trust and the other Loan Documents shall further secure the repayment of the Note and the other Indebtedness and the performance of the Obligations, regardless of whether or not the Indebtedness or Obligations arose out of or with respect to such Supplemental Deed of Trust.

## ARTICLE 3

### Payment and Performance

Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all Indebtedness secured by this Deed of Trust as it becomes due, and Grantor shall strictly perform all of Grantor's Obligations under the Note, this Deed of Trust, and the Loan Documents.

ARTICLE 4  
Possession and Maintenance of the Mortgaged Property

4.1 Possession and Use. Until the occurrence of an Event of Default, Grantor may (a) remain in possession and control of the Mortgaged Property and (b) use, operate or manage the Mortgaged Property.

4.2 Duty to Maintain. Grantor shall maintain the Mortgaged Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

4.3 Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Mortgaged Property or any portion of the Mortgaged Property. Specifically without limitation, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

4.4 Removal of Improvements. Grantor shall not alter, demolish, or remove any Improvements from the Land without the prior written consent of Lender. As a condition to the alteration, demolition, or removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

4.5 Lender's Right to Enter. Lender and its agents and representatives may enter upon the Land at all reasonable times to attend to Lender's interests and to inspect the Mortgaged Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

4.6 Compliance with Governmental Requirements. Grantor 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 Mortgaged Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Mortgaged Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

4.7 Duty to Protect. Grantor agrees neither to abandon nor leave unattended the Mortgaged Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Mortgaged Property are reasonably necessary to protect and preserve the Mortgaged Property.

4.8 Reappraisals. Lender shall have the right to obtain at Grantor's cost and expense reappraisals of the Mortgaged Property from any licensed or certified appraiser designated by Lender, from time to time (a) whenever such reappraisal may be required by any law, rule, or regulation applicable to the conduct of Lender's business, or may be requested or directed by any Governmental Authority charged with the administration of such law, rule, or regulation or Lender's compliance therewith, whether or not such request or direction has the force of law, or (b) whenever required to comply with Lender's policies concerning appraisals, or (c) whenever reasonably deemed appropriate by Lender following the occurrence or during the continuation of an Event of Default.

ARTICLE 5  
Hazardous Substances

5.1 Representations and Warranties. Except as disclosed to and acknowledged by Lender in writing, Grantor continuously represents and warrants that: (a) during the period of its ownership or operation of the Land, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any Person on, under, about or from the Mortgaged Property; (b) it has no knowledge of, or reason to believe that there has been (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any Hazardous Substance on, under, about or from the Mortgaged Property by any prior owners or occupants of the Mortgaged Property, or (ii) any actual or threatened litigation or claims of any kind by any Person relating to such matters. The representations and warranties contained herein are based on the Grantor's due diligence in investigating the Mortgaged Property for Hazardous Substances.

5.2 Activities. Except as agreed to by Lender in writing, Grantor agrees that it will not, and will not permit any tenant, contractor, agent or other authorized user of the Mortgaged Property to use, generate, manufacture, store, treat, dispose of, or release any Hazardous Substance on, under, about or from the Mortgaged Property.

5.3 Inspections. Grantor authorizes Lender and its agents to enter upon the Mortgaged Property to make such inspections and tests as Lender may deem appropriate to determine compliance of the Mortgaged Property with the provisions relating to Hazardous Substances. Any inspections or tests made by Lender shall be at the expense of Grantor and for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or any other Person.

5.4 Notice. Grantor agrees to immediately notify Lender if Grantor becomes aware of (a) any Hazardous Substances or other environmental problem or liability with respect to the Mortgaged Property, or any adjacent property, or (b) any lien, action or notice of any Governmental Authority related to Hazardous Substances. At its own cost, Grantor will take all actions which are necessary or desirable to clean up any Hazardous Substances affecting the Mortgaged Property, including without limitation removal, containment, or any other remedial action required by applicable Governmental Authorities.

5.5 Release and Indemnity. Grantor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event it becomes liable for cleanup or other costs under any Environmental Laws, and (b) agrees to defend, indemnify and hold Lender harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and costs and expenses (including attorney fees), arising directly or indirectly from or out of, or in any way connected with (i) the inaccuracy of the statements and information contained herein, (ii) any breach of any provisions of this Deed of Trust related to Hazardous Substances, (iii) any past, present or future use, generation, manufacture, storage, disposal, treatment, release, or threatened release of Hazardous Substances on or from the Mortgaged Property, (iv) the discovery of Hazardous Substances on the Mortgaged Property or on any other property which is caused by activities on the Mortgaged Property, and (v) the cleanup of Hazardous Substances from the Mortgaged Property or any such other properties. Grantor acknowledges that it will be solely responsible for all costs and expenses relating to the cleanup of Hazardous Substances from the Mortgaged Property or from any other properties which become contaminated with Hazardous Substances as a result of activities on or the contamination of the Mortgaged Property.



5.6 Survival. The provisions of the Hazardous Substances sections of the Deed of Trust, including the obligation to indemnify, shall survive the repayment of the Indebtedness and other liabilities and obligations of Grantor under this Deed of Trust, and the satisfaction and reconveyance of the lien of this Deed of Trust, and shall not be affected by Lender's acquisition of any interest in the Mortgaged Property, whether by foreclosure or otherwise.

5.7 Definitions. As used herein:

**"Environmental Laws"** means all federal, state, regional, county and local statutes, regulations, ordinances, rules, regulations and policies, all court and administrative orders and decrees and arbitration awards, and the common law, which pertain to environmental matters or contamination of any type whatsoever, including but not limited to those relating to the presence, manufacture, processing, use, distribution, treatment, storage, disposal, generation or transportation of Hazardous Substances; air, water (including surface water, groundwater, and stormwater) or soil (including subsoil) contamination or pollution; the presence or release of Hazardous Substances, protection of wildlife, endangered species, wetlands or natural resources; health and safety of employees and other persons; and notification requirements relating to the foregoing, including, without limitation, the following statutes, and regulations adopted thereunder: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (42 U.S.C. §9601 et seq.), the Superfund Amendments and Reauthorization Act of 1986, Pub L No. 99-499, the Hazardous Material Transportation Act (49 U.S.C. §1801 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.); the Solid Waste Disposal Act, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. § 1251 et seq.; the Clean Air Act, as amended, (42 U.S.C. § 7401 et seq.); the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 et seq. ); the Safe Drinking Water Act, (42 U.S.C. §§ 300f through 300j-11 et seq.); the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.); and the Occupational Safety and Health Act, 19 U.S.C. § 6251 et seq., as each of the foregoing may be amended from time to time.

**"Hazardous Substances"** means (a) any substance, chemical, compound, product, solid, gas, liquid, waste, byproduct, pollutant, contaminant, or material now or hereafter regulated by any Environmental Law or defined or designated as a hazardous, infectious, toxic or radioactive material, waste or substance, or as a pollutant or contaminant (or designated by any other similar term), by any Environmental Law now or hereafter in effect; (b) asbestos and any substance or compound containing asbestos; (c) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; (d) urea formaldehyde foam insulation; (e) polychlorinated biphenyls (PCBs); (f) radon; (g) mold; and (h) any other chemical, material, or substance, exposure to which (because of its quantity, concentration, or physical or chemical characteristics) is limited or regulated for health and safety reasons by any Governmental Authority, or which poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

ARTICLE 6  
Due on Sale - Consent by Lender

Grantor shall not sell or transfer all or any part of the Land or Improvements (the "Real Property"), or any interest in the Real Property. Lender may, at its option, (a) declare immediately due and payable all sums secured by this Deed of Trust or (b) impose such conditions as Lender deems appropriate, upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" or to "sell or transfer" means the conveyance of the Real Property or any right, title or interest therein; whether legal or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest. If any Grantor is a corporation, partnership, limited liability company or other entity, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests, membership interests or other ownership interests, as the case may be, of Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by law.

ARTICLE 7  
Taxes and Liens

7.1 Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Mortgaged Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Mortgaged Property. Grantor shall maintain the Mortgaged Property free of all liens and encumbrances except Permitted Encumbrances (as defined below), the lien of taxes and assessments not due, and except as otherwise provided in this Deed of Trust.

7.2 Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Mortgaged Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorney fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Mortgaged Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

7.3 Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Mortgaged Property.

7.4 Notice of Construction. Except for the construction of the improvements being financed with the proceeds of the Note, Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Mortgaged Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or

materials and the cost exceeds \$25,000.00. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

## ARTICLE 8

### Insurance

8.1 Maintenance of Insurance. Grantor shall obtain and maintain such policies of insurance as Lender requires, including but not limited to the following: (a) property insurance with respect to all Improvements, Personal Mortgaged Property and any other insurable Mortgaged Property, covering loss by fire, theft and such other hazards as are now or hereafter covered by Special Form (also known as "all-risk") coverage, including earth movement if required by Lender, and covering such other hazards as Lender requires, in an amount equal to 100% of the full replacement cost value and sufficient to avoid application of any coinsurance clause, and with an acceptable mortgagee and/or lender loss payable clause in favor of Lender, which insurance shall, during the course of any construction be in a "builder's risk" completed value (non reporting) form; (b) commercial general liability insurance on an occurrence basis, in such amounts as Lender requires, which shall, if required by Lender, name Lender and Trustee as additional insureds; (c) if the Land at any time becomes located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, flood insurance in such amounts as Lender requires; and (d) such other insurance, including but not limited to hazard, business interruption, loss of rents and boiler insurance, as Lender may reasonably require.

8.2 Form of Policies. All policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and shall be issued by a company or companies reasonably acceptable to Lender. All policies shall include a provision that such policies will not be cancelled or materially amended, which term shall include any reduction in the scope or limits of coverage, without at least thirty (30) days prior written notice to Lender. Each policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other Person and shall include the agreement of the insurer waiving all rights of setoff, counterclaim, and/or deduction against Grantor.

8.3 Delivery of Policies. Grantor shall furnish to Lender an original duplicate policy or, at Lender's option, a certificate of insurance in a form acceptable to Lender. At least thirty (30) days prior to the expiration date of each policy, Grantor shall furnish Lender a renewal policy, together with evidence that the renewal premium has been paid.

8.4 Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Mortgaged Property if the estimated cost of repair or replacement exceeds \$25,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Lender may, at its election, receive and retain the proceeds and apply the same to the reduction of the Indebtedness and/or the payment of any lien affecting the Mortgaged Property, or may permit the proceeds to be applied to the repair, restoration and replacement of the Mortgaged Property. In the event Lender elects to apply the insurance proceeds to the repair, restoration and replacement of the Mortgaged Property, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration or, at Lender's option, the proceeds shall be disbursed in accordance with its usual practices for construction loans (in which case Lender shall be entitled to reasonable compensation for its services). Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Mortgaged

Property shall be used first to pay any amount owing to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

8.5 Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Mortgaged Property covered by this Deed of Trust at any trustee's sale or other sale held under the provisions of this Deed of Trust, or at any foreclosure sale of such Mortgaged Property.

8.6 Grantor's Report on Insurance. Upon request of Lender, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the property insured, the then current replacement value of such property, and the manner of determining that value; and (e) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Mortgaged Property.

8.7 Insurance Disclosure.

#### **WARNING**

**Unless Grantor provides Lender with evidence of the insurance coverage as required herein, Lender may purchase insurance at Grantor's expense to protect Lender's interest. This insurance may, but need not, also protect Grantor's interest. If the Mortgaged Property becomes damaged, the coverage Lender purchases may not pay any claim Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.**

**Grantor is responsible for the cost of any insurance purchased by Lender. The cost of this insurance may be added to the Note balance. If the cost is added to the Note balance, the interest rate on the Note will apply to this added amount. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage.**

**The coverage Lender purchases may be considerably more expensive than insurance Grantor can obtain on Grantor's own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.**

#### **ARTICLE 9**

##### **Insurance and Condemnation Proceeds**

Notwithstanding any contrary provision of this Deed of Trust relating to the application of insurance and condemnation proceeds (the "*Payments*"), Lender will permit the Payments to be used to repair or restore the Mortgaged Property in a manner satisfactory to Lender if Lender determines that: (a) no Event of Default has occurred and is continuing, (b) upon completion of such repair or restoration, the value of the Mortgaged Property (as determined by Lender in its reasonable discretion) will be no less



than the value of the Mortgaged Property immediately prior to the taking or loss; (c) the Payments are adequate for the repair or restoration of the Mortgaged Property; (d) Grantor has sufficient funds or adequate insurance to pay all debt service, operating expenses, taxes and other carrying costs of the Mortgaged Property during the period of repair or restoration; (e) Grantor has in force rental continuation and business interruption insurance covering the longer of six months or the time Lender reasonably estimates is required for repair or restoration; (f) repair or restoration will be completed at least one year prior to the maturity date of the Note; (g) repair or restoration will be conducted in accordance with plans and specifications, drawings and cost estimates acceptable to Lender, shall be in conformity with all governmental zoning, land use, environmental and other requirements and regulations, and shall comply with all other requirements reasonably imposed by Lender. Any Payments in excess of the amounts necessary for repair or restoration shall be applied to repayment of the Indebtedness.]

#### ARTICLE 10 Tax and Insurance Reserves

Subject to any limitations imposed by applicable law if any Event of Default has occurred or if Grantor fails to pay any taxes, assessments or insurance when due, Lender may require Grantor to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce, at least fifteen (15) days before due, amounts at least equal to the taxes, assessments, and insurance premiums to be paid. If fifteen (15) days before payment is due the reserve funds are insufficient, Grantor shall upon demand pay any deficiency to Lender. The reserve funds shall be held by Lender as a general deposit from Grantor, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantor as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Deed of Trust shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantor shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantor, and Lender is not the agent of Grantor for payment of the taxes and assessments required to be paid by Grantor.

#### ARTICLE 11 Expenditures By Lender

If any action or proceeding is commenced that would materially affect Lender's interest in the Mortgaged Property or if Grantor fails to comply with any provision of this Deed of Trust or any Loan Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Loan Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Mortgaged Property and paying all costs for insuring, maintaining and preserving the Mortgaged Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the Note Rate from the date incurred or paid by Lender to the

date of repayment. All such expenses will become a part of the Indebtedness and will be payable on demand. The Mortgaged Property also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

## ARTICLE 12 Warranty; Defense of Title

12.1 Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Mortgaged Property in fee simple, free and clear of all liens and encumbrances other than those existing on the date hereof which are accepted by Lender in writing (collectively, "Permitted Encumbrances"), and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

12.2 Defense of Title. Except for Permitted Encumbrances, Grantor warrants and will forever defend the title to the Mortgaged Property against the lawful claims of all Persons and agrees that there shall be no other liens or encumbrances against the Mortgaged Property, even if such liens or encumbrances are subordinate to the lien of this Deed of Trust. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Lender under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

12.3 Compliance With Laws. Grantor warrants that the Mortgaged Property and Grantor's use of the Mortgaged Property complies with all existing applicable laws, ordinances, and regulations of Governmental Authorities.

## ARTICLE 13 Condemnation

13.1 Application of Net Proceeds. If all or any part of the Mortgaged Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may, at its election, require that all or any portion of the net proceeds of the award be applied to the Indebtedness or may permit the proceeds to be applied to the repair or restoration of the Mortgaged Property. If the proceeds are applied to repair or restoration, Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Deed of Trust or, at Lender's option, the proceeds shall be disbursed by Lender in accordance with its usual practices for construction loans (in which case Lender shall be entitled to reasonable compensation for its services). The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorney fees, of both the Trustee and Lender in connection with the condemnation.

13.2 Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and

Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

ARTICLE 14  
Imposition of Taxes, Fees and Charges by Governmental Authorities

14.1 Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Land. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

14.2 Taxes. The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Deed of Trust or upon all or any part of the Indebtedness secured by this Deed of Trust; (b) a specific tax on Grantor which it is authorized or required to deduct from payments on the Indebtedness secured by this type of Deed of Trust; (c) a tax on this type of Deed of Trust chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

14.3 Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default (as defined below), and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

ARTICLE 15  
Security Agreement; Financing Statements

15.1 Security Agreement. This instrument shall constitute a security agreement to the extent any of the Mortgaged Property constitutes inventory, equipment, fixtures, accounts, general intangibles, instruments, chattel paper, deposit accounts or other personal property, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

15.2 Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to evidence, perfect, protect, enforce and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor authorizes Lender to file any financing statements and to take all other actions which Lender deems advisable to evidence, perfect or continue its security interest in any collateral for the Indebtedness. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

ARTICLE 16  
Assignment of Leases and Rents

16.1 Grantor's Representations and Warranties. Grantor continuously represents and warrants that: (a) Grantor has good right, title, and interest to the Leases and Rents, free of all liens, encumbrances, and claims except those disclosed to and accepted by Lender in writing; (b) Grantor has full right, power, and authority to enter into and perform this assignment; (c) the Leases are in full force and effect and have not been modified or amended; (d) the Rents have not been waived, discounted, compromised, setoff or paid more than one month in advance; (e) there are no other assignments, transfers, pledges or encumbrances of any Leases or Rents; and (f) neither Grantor nor the lessees and tenants are in default under the Leases.

16.2 Grantor's Agreements. Grantor shall (a) fulfill or perform each and every term, covenant and provision of the Leases to be fulfilled or performed by the lessor thereunder; (b) give prompt notice to Lender of any notice received by Grantor of default under any Lease or of any alleged default or failure of performance that could become a default thereunder, together with a complete copy of any such notice; and (c) enforce, short of termination thereof, the performance or observance of each and every term, covenant and provision of each Lease to be performed or observed by the lessees and tenants thereunder. Grantor, without the prior written consent of Lender, shall not: (d) cancel, modify or alter, or accept the surrender of, any Lease; (e) assign, transfer, pledge or encumber, the whole or any part of the Leases and Rents to anyone other than Lender; (f) accept any Rents more than one month in advance of the accrual thereof; or (g) do or permit anything to be done, the doing of which, or omit or refrain from doing anything, the omission of which, could be a breach or default under the terms of any Lease or a basis for termination thereof.

16.3 Lender Not Liable. Lender does not assume and shall not be liable for any obligation of the lessor under any of the Leases and all such obligations shall continue to rest upon Grantor as though this assignment had not been made. Neither the assignment of the Leases and Rents nor the exercise by Lender of any of its rights or remedies hereunder or in connection herewith, prior to Lender obtaining actual possession of the Mortgaged Property, shall constitute Lender a "mortgagee in possession" or otherwise make Lender responsible or liable in any manner with respect to the Mortgaged Property or the occupancy, operation or use thereof.

16.4 Lender's Rights to Collect Rents. In addition to the other remedies available to Lender, Lender shall have the right at any time, if an Event of Default has occurred, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority: (a) Lender may send notices to any and all tenants of the Mortgaged Property advising them of the assignment and directing all Rents to be paid directly to Lender or Lender's agent; (b) Lender may enter upon and take possession of the Mortgaged Property; demand, collect and receive from the tenants or from any other Persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Mortgaged Property, including such proceedings as may be necessary to recover possession of the Mortgaged Property; collect the Rents and remove any tenant or tenants or other Persons from the Mortgaged Property; (c) Lender may enter upon the Mortgaged Property to maintain the Mortgaged Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Mortgaged Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Mortgaged Property; (d) Lender may do any and all things to execute and comply with applicable state laws and also all other



laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Mortgaged Property; (e) Lender may rent or lease the whole or any part of the Mortgaged Property for such term or terms and on such conditions as Lender may deem appropriate; (f) Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Mortgaged Property, including the collection and application of Rents; and (g) Lender may do all such other things and acts with respect to the Mortgaged Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above. Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

16.5 Application of Rents. All costs and expenses incurred by Lender in connection with the Mortgaged Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Deed of Trust, and shall be payable on demand, with interest at the Note Rate from date of expenditure until paid.

#### ARTICLE 17

##### Further Assurances; Attorney-In-Fact

17.1 Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) the obligations of Grantor under the Note, this Deed of Trust, and the Loan Documents, and (b) the liens and security interests created by this Deed of Trust on the Mortgaged Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or agreed to the contrary by Lender in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

17.2 Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph. This power of attorney is irrevocable and is coupled with an interest.

#### ARTICLE 18

##### Full Performance

If Grantor pays all the Indebtedness when due, terminates the availability of advances, and Grantor otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to

Grantor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor shall pay Lender a reasonable reconveyance fee for said reconveyance. The grantee in any such reconveyance may be described as the "person or persons legally entitled thereto."

## ARTICLE 19

### Default

Each of the following shall constitute a default and an event of default ("Event of Default") under this Deed of Trust and each of the other Loan Documents:

19.1 Default on Indebtedness. Any Loan Party fails to pay any principal, interest, fees or any other amount when due under the Note or any other Loan Document.

19.2 Performance Default. Any default or event of default occurs under or any Loan Party fails to pay, perform or comply with any term, condition, covenant or obligation in the Loan Agreement, this Deed of Trust, or any other Loan Document.

## ARTICLE 20

### Rights And Remedies On Default

Upon the occurrence of any Event of Default and at any time thereafter, Trustee or Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

20.1 Accelerate Indebtedness. Lender shall have the right at its option to cease making advances and declare the entire Indebtedness immediately due and payable, including any prepayment fee or penalty which Grantor would be required to pay; provided, however, if any proceeding under any bankruptcy or insolvency laws is commenced by or against Grantor or any other Loan Party, the Indebtedness shall automatically become due and payable in full without notice.

20.2 Foreclosure. With respect to all or any part of the Real Property, the Trustee and Lender shall have the right to foreclose by notice and sale or advertisement and sale, and to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law. If this Deed of Trust is foreclosed (whether by judicial foreclosure or otherwise), Lender will, to the fullest extent permitted by applicable law, be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the amount of the unpaid balance of the judgment.

20.3 UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code, including without limitation the right to recover any deficiency in the manner and to the full extent provided by applicable law.

20.4 Collect Rents. Lender shall have the right, without notice to Grantor, to take possession of and manage the Mortgaged Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Mortgaged Property to make payments of rent or

use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. This power of attorney is irrevocable and is coupled with an interest. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

20.5 Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Mortgaged Property, with the power to protect and preserve the Mortgaged Property, to operate the Mortgaged Property preceding foreclosure or sale, and to collect the Rents from the Mortgaged Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Mortgaged Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a Person from serving as a receiver.

20.6 Tenancy at Sufferance. If Grantor remains in possession of the Mortgaged Property after the Mortgaged Property is sold as provided above or Lender otherwise becomes entitled to possession of the Mortgaged Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Mortgaged Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Mortgaged Property, or (b) vacate the Mortgaged Property immediately upon the demand of Lender.

20.7 Other Remedies. Trustee or Lender shall have any other right or remedy provided in this Deed of Trust, the Note, the other Loan Documents, or by law including without limitation the right to take possession of the Mortgaged Property and to take any and all actions necessary to complete construction of the improvements being constructed with the proceeds of the Note.

20.8 Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of Personal Property may be made in conjunction with any sale of the Real Property.

20.9 Sale of the Mortgaged Property. To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Mortgaged Property marshalled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Mortgaged Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Mortgaged Property.

20.10 Waiver; Election of Remedies. A waiver by any party of a breach of a provision of this Deed of Trust shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Deed of Trust, the Note, in any Loan Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust after failure of Grantor to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

20.11 Attorney Fees; Expenses. Whether or not any court action is involved, all reasonable expenses incurred by Lender which in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note Rate from the date of expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorney fees whether or not there is a lawsuit, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Without limiting the foregoing, if any suit or action is commenced to construe or to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sums as the court may adjudge reasonable as attorney fees. As used in this Deed of Trust, "attorney fees" include attorney fees whether or not there is a lawsuit and include without limitation attorney fees at trial, in any appellate proceeding, proceeding under the bankruptcy code (including efforts to modify or vacate any automatic stay or injunction) or receivership, and post-judgment fees of enforcing any judgment. Grantor also will pay any court costs, in addition to all other sums provided by law.

20.12 Rights of Trustee. Trustee shall have all of the rights and duties of Lender as set forth in this section.

## ARTICLE 21 Powers and Obligations of Trustee

21.1 Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Mortgaged Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Land, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Land; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

21.2 Obligation to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

21.3 Trustee. Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Mortgaged Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

21.4 Successor Trustee. Lender, at Lender's option, may from time to time appoint a successor Trustee in accordance with the requirements of applicable law. The successor trustee, without conveyance of the Mortgaged Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law.

## ARTICLE 22 Notices to Grantor and Other Parties

Any notice under this Deed of Trust shall be in writing and shall be effective when actually delivered or, if mailed, shall be deemed effective when deposited in the United States mail first class,



certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Lender's address, as shown near the beginning of this Deed of Trust. For notice purposes, Grantor agrees to keep Lender and Trustee informed at all times of Grantor's current address.

### ARTICLE 23 Anti-Deficiency Waivers

To the fullest extent permitted by applicable law, Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

### ARTICLE 24 Miscellaneous Provisions

24.1 Amendments. This Deed of Trust, together with any Loan Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration of or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

24.2 Subrogation. If, and to the extent that, the proceeds of the Note are used to pay, satisfy or discharge any existing lien on the Mortgaged Property, Lender shall be subrogated to the rights, including the lien priority, of the holder of such existing lien, whether or not such existing lien is released.

24.3 Accounts and Records. Grantor will maintain a standard system of accounting administered in accordance with generally accepted accounting principles. Lender shall have the right to examine the books of account of Grantor, and to discuss the affairs, finances, and accounts of Grantor with Grantor's representatives, all at such reasonable times and intervals as Lender may desire. Grantor will furnish to Lender from time to time such financial and other information as Lender requests regarding any Loan Party and the Mortgaged Property.

24.4 Applicable Law. This Deed of Trust shall be governed by, construed and enforced in accordance with the laws of the State of Oregon. However, in the event that the enforceability or validity of any provision of this Deed of Trust is challenged or questioned, such provision shall be governed by whichever applicable state or federal law would uphold or would enforce such challenged or questioned provision. The loan transaction which is evidenced by the Note and this Deed of Trust (which secures the Note) has been applied for, considered, approved, and made in the State of Oregon. IF THERE IS A LAWSUIT, GRANTOR, AT LENDER'S OPTION, AGREES TO SUBMIT TO THE JURISDICTION OF ANY FEDERAL OR STATE COURT LOCATED IN OR HAVING JURISDICTION OVER DESCHUTES COUNTY, OREGON; PROVIDED, HOWEVER, THAT THIS SHALL NOT AFFECT LENDER'S RIGHT TO BRING PROCEEDINGS AGAINST GRANTOR IN THE COMPETENT COURTS OF ANY OTHER JURISDICTION. To the fullest extent that it can legally do so, Grantor waives any objection which it may now or hereafter have to the laying of venue in any such court, including without limitation any objection based on the doctrine of *forum non conveniens*.

24.5 Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, GRANTOR HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO ANY OF THE LOAN DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE INDEBTEDNESS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. GRANTOR ACKNOWLEDGES AND AGREES THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

24.6 Caption Headings. Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

24.7 Assignments and Participations. Lender may at any time sell, assign, transfer, negotiate, grant participations in, or otherwise dispose of, to any one or more other lenders all or any part of the indebtedness of Grantor at any time outstanding under the Note, this Deed of Trust, or any of the Loan Documents and in connection therewith disclose any information Lender may have concerning Grantor.

24.8 Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Mortgaged Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

24.9 Multiple Parties. If Grantor consists of more than one Person, all obligations of Grantor under this Deed of Trust shall be joint and several, and all references to Grantor shall mean each and every Grantor. Where any one or more of the parties are corporations, partnerships, limited liability companies, or other entities, it is not necessary for Lender to inquire into the powers of any of the parties or of the officers, directors, partners, agents, managers or members acting or purporting to act on their behalf.

24.10 Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be invalid or unenforceable as to any Person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other Persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Deed of Trust in all other respects shall remain valid and enforceable.

24.11 Successors and Assigns. Subject to the limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Mortgaged Property becomes vested in a Person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Deed of Trust and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the Indebtedness.

24.12 Time Is of the Essence. Time is of the essence in the performance of this Deed of Trust.

24.13 Waivers and Consents. Lender shall not be deemed to have waived any rights under this Deed of Trust (or under the Loan Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Deed of Trust shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other

provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

24.14 Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Oregon as to all Indebtedness secured hereby.

24.15 Continuing Representations and Warranties. All representations and warranties made by Grantor in this Deed of Trust or any of the other Loan Documents shall survive the execution and delivery of this Deed of Trust and the other Loan Documents, and shall remain in full force and effect and shall be deemed made continuously until payment and performance in full of all obligations of each Loan Party under the Loan Documents.

24.16 Counterparts. This Deed of Trust may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one document.

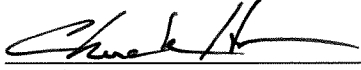
24.17 Commercial Property. This Deed of Trust is not a residential trust deed. The Mortgaged Property is not now occupied by, is not intended to be occupied in the future by, and shall not at any time be occupied as, the principal residence of Grantor, Grantor's spouse or Grantor's minor or dependent child.

[SIGNATURE PAGE TO FOLLOW]

EXECUTED to be effective as of the date first set forth above.

**GRANTOR:**

**PAHLISCH HOMES, INC.,** an Oregon corporation

By:   
Charles J. Hammagren, Treasurer

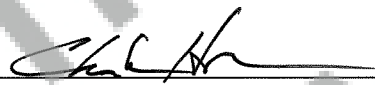
**PAHLISCH HOMES AT ARDEN VILLAGE, LP** an  
Oregon limited partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer


**PAHLISCH HOMES AT BAILEY RIDGE LIMITED  
PARTNERSHIP,** an Oregon limited partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer

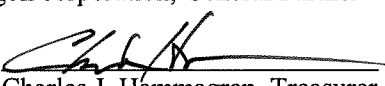
**PAHLISCH HOMES AT BELLA VISTA HEIGHTS  
LIMITED PARTNERSHIP,** an Oregon limited  
partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer

**PAHLISCH HOMES AT EMERALD VALLEY  
LIMITED PARTNERSHIP,** an Oregon limited  
partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer



**GRANTOR:**

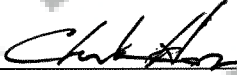
**PAHLISCH HOMES AT FOOTHILLS VIEW  
LIMITED PARTNERSHIP**, an Oregon limited  
partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer


**PAHLISCH HOMES AT MCCALL LANDING  
LIMITED PARTNERSHIP**, an Oregon limited  
partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer

**PAHLISCH HOMES AT OCHOCO POINTE  
LIMITED PARTNERSHIP**, an Oregon limited  
partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer

**PAHLISCH HOMES AT PARKLAND LIMITED  
PARTNERSHIP**, an Oregon limited partnership


By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer

**GRANTOR:**

**PAHLISCH HOMES AT PHEASANT RUN  
LIMITED PARTNERSHIP**, an Oregon limited  
partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer


**PAHLISCH HOMES AT SKY RIDGE LIMITED  
PARTNERSHIP**, an Oregon limited partnership

By: Pahlisch Homes, Inc.,  
an Oregon corporation, General Partner

By:   
Charles J. Hammagren, Treasurer


**PAHLISCH HOMES AT TRIPLE RIDGE, LLC**, an  
Oregon limited liability company

By: Pahlisch Homes, Inc.,  
an Oregon corporation, Manager

By:   
Charles J. Hammagren, Treasurer

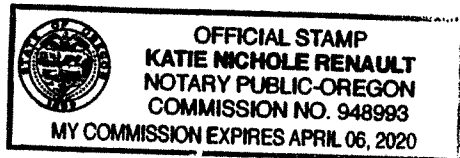
**PAHLISCH HOMES AT RESERVE GOLF  
FAIRWAY, LLC**, an Oregon limited liability company


By: Pahlisch Homes, Inc.,  
an Oregon corporation, Manager

By:   
Charles J. Hammagren, Treasurer

STATE OF OREGON                    )  
  ) ss.  
County of Deschutes                )

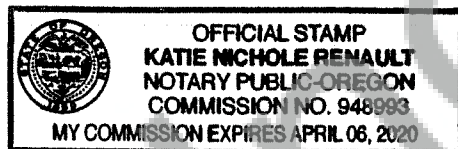
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren as Treasurer of Pahlisch Homes, Inc., an Oregon corporation.

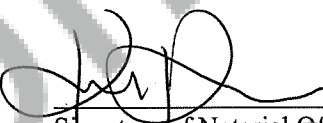


  
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Signature of Notarial Officer  
Stamp (if required):  
Title of Office: Notary Public  
My Commission Expires: 4-6-20

STATE OF OREGON                    )  
  ) ss.  
County of Deschutes                )

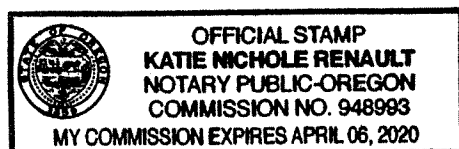
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as General Partner of Pahlisch Homes at Arden Village, LP, an Oregon limited partnership.

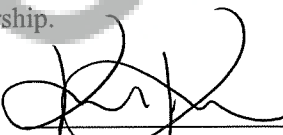


  
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Signature of Notarial Officer  
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STATE OF OREGON                    )  
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County of Deschutes                )

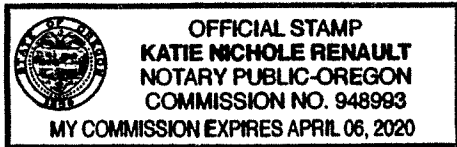
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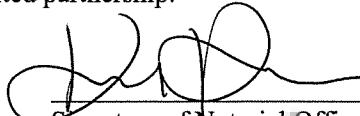


  
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STATE OF OREGON                    )  
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County of Deschutes                )

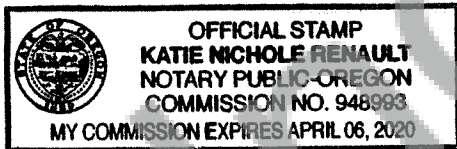
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as General Partner of Pahlisch Homes at Bella Vista Heights Limited Partnership, an Oregon limited partnership.




  
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STATE OF OREGON                    )  
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County of Deschutes                )

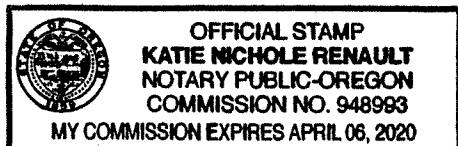
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as General Partner of Pahlisch Homes at Emerald Valley Limited Partnership, an Oregon limited partnership.




  
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STATE OF OREGON                    )  
  ) ss.  
County of Deschutes                )

This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as General Partner of Pahlisch Homes at Foothills View Limited Partnership, an Oregon limited partnership.

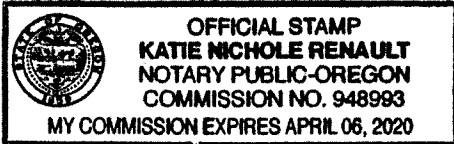


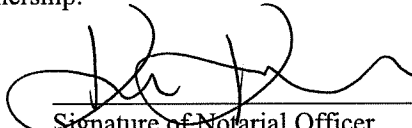
  
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County of Deschutes                )

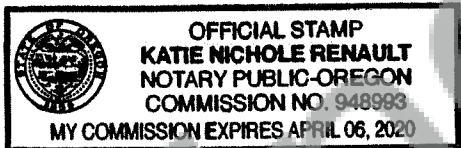
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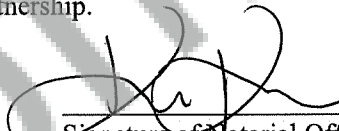


  
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County of Deschutes                )

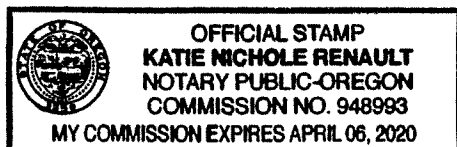
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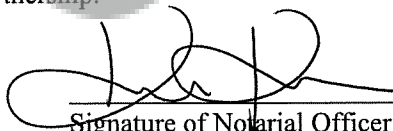


  
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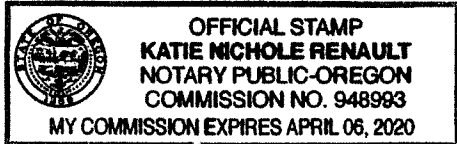
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as General Partner of Pahlisch Homes at Parkland Limited Partnership, an Oregon limited partnership.

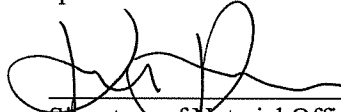


  
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STATE OF OREGON                    )  
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County of Deschutes                )

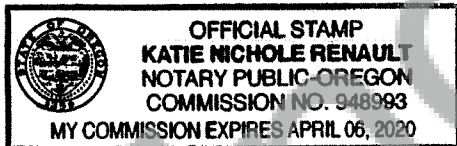
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as General Partner of Pahlisch Homes at Pheasant Run Limited Partnership, an Oregon limited partnership.

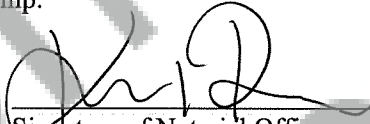


  
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STATE OF OREGON                    )  
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County of Deschutes                )

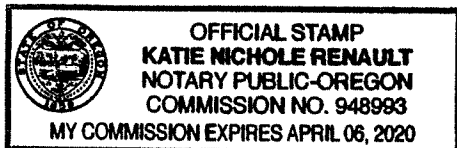
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as General Partner of Pahlisch Homes at Sky Ridge Limited Partnership, an Oregon limited partnership.




  
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Signature of Notarial Officer  
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Title of Office: Notary Public  
My Commission Expires: 4.6.20

STATE OF OREGON                    )  
  ) ss.  
County of Deschutes                )

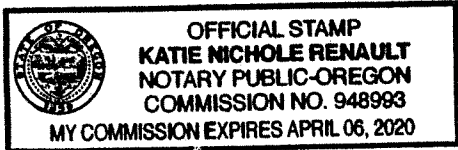
This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as Manager of Pahlisch Homes at Triple Ridge LLC, an Oregon limited liability company.



  
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Signature of Notarial Officer  
Stamp (if required):  
Title of Office: Notary Public  
My Commission Expires: 4.6.20

STATE OF OREGON                    )  
  ) ss.  
County of Deschutes                )

This record was acknowledged before me on July 19, 2016, by Charles J. Hammagren, Treasurer of Pahlisch Homes, Inc. as Manager of Pahlisch Homes at Reserve Golf Fairway, LLC, an Oregon limited liability company.



A handwritten signature in black ink, likely belonging to the notary public, Katie Nichole Renault.

Signature of Notarial Officer

Stamp (if required):

Title of Office: Notary Public

My Commission Expires:

4.6.20