

After recording, return to:  
Klamath Housing Authority  
1445 Avalon Street  
Klamath Falls, Oregon 97603

2024-010654  
Klamath County, Oregon  
12/09/2024 02:59:02 PM  
Fee: \$152.00

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

**(Veteran GHAP Funds)**

Date: October 31, 2024

From: Everfree Homes, LLC ("Grantor")  
4223 Venture Court  
Klamath Falls, Oregon 97601

To: AmeriTitle, LLC ("Trustee")  
404 Main St., Suite 1  
Klamath Falls, OR 97601

For: Klamath Housing Authority ("Beneficiary")  
1445 Avalon Street  
Klamath Falls, Oregon 97603

1. **FIXTURE FILING.** THIS DEED OF TRUST IS INTENDED ALSO AS A  
FIXTURE FILING AND IS TO BE INDEXED NOT ONLY AS A DEED OF TRUST BUT  
ALSO AS A FIXTURE FILING.

2. **The Collateral.** For a valuable consideration, the receipt and sufficiency of which  
are hereby acknowledged, Grantor hereby:

(a) mortgages, transfers, assigns, and conveys in trust to Trustee with  
power of sale upon default for the benefit of Beneficiary of the leasehold estate in the land  
located in the City of Klamath Falls, Klamath County, Oregon, more particularly described on  
Exhibit A attached hereto and incorporated herein by reference (the "**Legal Description**"), and  
all buildings, structures, improvements, fixtures, minerals, hydrocarbons and landscaping now or  
hereafter located thereon, all roads, rights-of-way, easements, access rights, water rights,  
appurtenances, tenements, hereditaments and licenses now or hereafter belonging thereto and all  
leases, rents, royalties, issues, profits and proceeds therefrom, specifically including, but not  
limited to, all insurance and condemnation proceeds and awards (the "**Property**");

(b) conveys, transfers, and assigns to Beneficiary all existing and  
future leases, rental agreements and similar contracts and all maintenance, security, and janitorial

contracts relating to all or any part of the Property or to the use or enjoyment thereof, any contracts for the sale of the Property, and all income, royalties, and profits arising from the Property, and all rights and remedies related thereto, specifically including the right to demand, sue for and/or collect rent and other payments due from lessees or tenants, subject only to a limited license reserved to Grantor to collect and properly apply said rents and payments prior to Grantor's default hereunder (the "**Leases and Contracts**"); and

(c) pledges and grants to Beneficiary pursuant to Article 9 of the Uniform Commercial Code as adopted in Oregon a security interest in and to all present and after-acquired goods (including materials and supplies), fixtures, equipment, vehicles, furniture, furnishings owned by Grantors, or any of them, and used or for use in connection with the Real Property, accounts and all general intangibles, including leases and rents, arising from or related to the Real Property (the "**Personal Property**").

3. Obligations Secured. The above-described collateral is given to secure:

(a) performance of those terms and conditions as more fully set forth in that certain loan agreement of even date herewith between Grantor and Beneficiary (the "**Loan Agreement**");

(b) performance of the covenants and agreements hereinafter made;

(c) payment of the sum of up to \$3,450,000, together with interest on the unpaid balance thereof (the "**Loan**") of Veteran GHAP Funds, in accordance with that certain Interest-Bearing Promissory Note of even date herewith (the "**Note**") on or before December 31, 2054 and any and all renewals and extensions thereof whether or not evidenced by new or additional instruments; and

(d) payment or performance, as the case may be, of all other present or future debts, liabilities or obligations of any kind or nature, direct or indirect, of Grantor to Beneficiary, including, but not limited to, all advances by Beneficiary in servicing and enforcing the debts, obligations, and liabilities of Grantor and in preserving, handling, protecting, collecting, foreclosing, disposing, and otherwise realizing on any and all security therefor, including the Property.

The interest rate, payment terms or balance due on the Note may be indexed, adjusted, renewed, or renegotiated.

4. Grantor's Representations and Warranties. Grantor represents and warrants:

(a) Grantor has a leasehold interest of the Property pursuant to that certain Ground Lease, dated as of October 31, 2024, between Grantor and Beneficiary, and has the right and authority to convey the Property as provided herein; and

(b) the Property now is free and clear of all liens and encumbrances except encumbrances of record.

5. Promise to Pay and Perform. Grantor will pay the debts and liabilities secured by this Deed of Trust promptly when due and will strictly and punctually perform all additional obligations, covenants and agreements that are contained in this Deed of Trust, the Note and any other instrument or agreement between Grantor and Beneficiary.

6. Encumbrances and Compliance with Law.

6.1 Grantor shall pay all taxes, assessments, and other charges of every nature (including utilities) which may be levied or assessed upon or against the Property, or any part thereof, when due and payable according to law. Grantor shall promptly pay and satisfy all construction liens and other liens or encumbrances that are or might by operation of law or otherwise become a prior lien on the Property.

6.2 Grantor shall comply with all existing and future laws, orders and regulations of all governmental bodies that affect the Property or the use thereof.

6.3 Grantor shall indemnify and hold Trustee and Beneficiary harmless from all costs incurred in connection with such taxes, assessments, charges, compliance with governmental requirements, liens, and encumbrances. Grantor shall defend Beneficiary's rights against any and all liens and encumbrances.

6.4 Grantor shall not be deemed in default hereunder by reason of failure to pay any taxes, assessments, liens, or other charges levied, assessed, or imposed upon or against the Property when due and payable so long as Grantor is contesting such taxes, assessments, liens, or charges in good faith by appropriate means and Grantor provides to Beneficiary cash deposits or bonds in the amount of the taxes, assessments, liens, or other charges being contested.

7. Protection of Property.

7.1 Grantor shall keep all improvements on the Property in good order and repair and shall not commit or suffer any waste of the Property.

7.2 Grantor shall not do or allow any act or omission, including removal or alteration of improvements, which shall materially reduce the security value of the Property.

7.3 Grantor shall afford Beneficiary the right to enter upon and inspect the Property at all reasonable times.

8. Insurance.

8.1 Grantor shall keep all improvements now or hereafter on the Property insured against loss or damage by fire with extended coverage indorsement by a responsible insurance company satisfactory to Beneficiary in an amount equal to the full replacement value of the improvements to the Property. The insurance policy shall name Grantor, Beneficiary and the holder of any prior mortgage or trust deed insured parties as their respective interests may appear and provide that such insurance coverage shall not be canceled without at least 15 days' prior written notice having been given to Beneficiary.

8.2 Grantor shall give prompt notice to Beneficiary of any insured or uninsured casualty. Subject to the rights of any senior lienholder, proceeds shall be paid directly to Beneficiary. Subject to the provisions of Section 8.3, Beneficiary shall have the option, in its sole and absolute discretion, to apply all such proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including reasonable attorney fees, incurred by it in connection with such proceeds, upon any indebtedness secured hereby and in such order as Beneficiary may determine, or to apply all such proceeds, after such deductions, to the repair or restoration of the improvements to the Property.

8.3 The proceeds of any insured or uninsured casualty, less any legal costs and fees incurred by Beneficiary, shall be used to reimburse Grantor for the cost of restoration of the improvements to the Property, provided that (i) restoration is economically and legally feasible in the reasonable judgment of Beneficiary, (ii) Grantor provides any funds in addition to insurance proceeds required to cover the cost of restoration, and (iii) Grantor is not then in default under any of the Loan Documents (as defined in Section 11.3 hereof). Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

**WARNING:**

**Unless Grantor provides Beneficiary with evidence of the insurance coverage required by the Note, Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantor's interest. If the Property becomes damaged, the coverage Beneficiary 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 Beneficiary. The cost of this insurance may be added to Grantor's loan balance. If the cost is added to Grantor's loan balance, the interest rate on the underlying loan 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 Beneficiary purchases may be considerably more expensive than insurance Grantor can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.**

9. Performance of Grantor's Obligations by Beneficiary. If Grantor allows insurance coverage to expire or fails or refuses to pay taxes, assessments, charges, liens or encumbrances or to comply with governmental requirements, Beneficiary may, but shall not be required to, procure, pay or perform the same and the amount of such payment or cost of such procurement or performance, together with interest thereon at the rate provided for in the Note, shall be immediately due and payable by Grantor to Beneficiary and secured by the lien of this Deed of Trust. Performance by Beneficiary shall not be deemed a waiver of any rights Beneficiary may have on account of Grantor's failure to timely perform.

10. Condemnation. Should the Property, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding or in any other manner (“**Condemnation**”), or should Grantor receive any notice or other information regarding such proceeding, Grantor shall give prompt written notice thereof to Beneficiary.

10.1 For so long as any indebtedness remains outstanding, subject to the rights of any senior lienholders, Grantor hereby assigns to Beneficiary, as additional security, all awards of damage resulting from condemnation proceedings or the taking of or injury to the Property for public use, and the proceeds of all such awards shall be paid to Beneficiary. Subject to the provisions of Section 10.2, Beneficiary shall have the right, in its sole and absolute discretion, to apply all such proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including reasonable attorney fees, incurred by it in connection with such proceeds, upon any indebtedness secured hereby.

10.2 The proceeds, less any administrative and legal costs and fees incurred by Beneficiary, shall be used to reimburse Grantor for the cost of restoration of the improvements to the Property, provided that restoration is economically and legally feasible in the reasonable judgment of Beneficiary and provided further that Grantor is not in default under any of the Loan Documents. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

11. Default. Time is of the essence. Occurrence of one or more of the following shall constitute an event of default (“**Event of Default**”):

11.1 Grantor shall fail to pay principal or interest in accordance with the terms of the Note.

11.2 Any representation or warranty herein or in any agreement executed pursuant hereto or in connection with this transaction shall prove to have been materially false or misleading in any material adverse respect when made.

11.3 Grantor fails to comply with the terms and conditions set forth in this Deed of Trust, the Loan Agreement, and the Note (collectively, the “**Loan Documents**”).

11.4 The filing by Grantor of a petition for relief under the Federal Bankruptcy Code, or any other applicable federal or state law, or the consent by it to the filing of any such petition or the consent to the appointment of a receiver, liquidator, assignee, trustee, or other similar official, of Grantor, or of any substantial part of its property, or the making by Grantor of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due or the taking of corporate action by Grantor in furtherance of any such action.

11.5 The commencement of an action against Grantor seeking any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar relief under any applicable federal or state law or regulation, which action is not dismissed within 120 days after commencement, or the appointment without the consent or acquiescence of Grantor of any trustee, receiver or

liquidator of Grantor, or of all or any substantial part of the properties of Grantor, which appointment is not vacated within 120 days after such appointment.

12. Right to Cure.

12.1 Monetary Default. If an Event of Default occurs pursuant to Section 10.1, Grantor shall have a period of ten (10) days after receipt of written notice of default from Beneficiary to Grantor to cure the default prior to the exercise of remedies by Beneficiary pursuant to the terms of this Agreement.

12.2 Non-Monetary Default. Following the Compliance Period, if an Event of Default occurs pursuant to Sections 11.2 or 11.3, Grantor shall have a period of thirty (30) days after receipt of written notice of default from Beneficiary to Grantor to cure any such default which is curable prior to the exercise of remedies by Beneficiary pursuant to the terms of this Agreement, except that if default is curable, but cannot be cured within such 30-day period, Grantor shall have such additional time as is reasonably necessary to cure the default prior to the exercise of any remedies by Beneficiary.

12.3 In the event of a monetary default under the Loan Documents, each of Grantor's members as defined pursuant to the Operating Agreement shall have the right (but not the obligation) to cure the default within 30 days after receipt of such notice prior to exercise of any remedies available to the Beneficiary under the Loan Documents. If a non-monetary default occurs under the terms of any of the Loan Documents, prior to exercising any remedies thereunder Beneficiary shall give Grantor and each of the members of the Grantor, as identified in the Operating Agreement, simultaneous written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Grantor shall have such period to effect a cure prior to exercise of remedies by Beneficiary under the Loan Documents, or such longer period of time as may be specified in the Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days or such longer period if so specified, and if Grantor (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then Grantor and Grantor's members shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. If Grantor fails to take corrective action or to cure the default within a reasonable time, Beneficiary shall give Grantor and each of the members of the Grantor written notice thereof, whereupon the member(s) may remove and replace the manager with a substitute manager in accordance with the Operating Agreement. The substitute manager shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions.

13. Remedies. In the event of a default hereunder, Beneficiary shall have the option to declare all debts and liabilities of Grantor to Beneficiary immediately due and payable and this Deed of Trust by reason thereof may be foreclosed at any time thereafter either by advertisement and sale in the manner provided in ORS 86.705 to 86.795 or by civil action as a mortgage. In addition, Beneficiary, either directly or through a receiver appointed by the presiding judge of the circuit court for the county in which the Property is located, may take possession of the Property upon Grantor's default hereunder (whether or not the apparent value of the Property exceeds the debts and liabilities of Grantor to Beneficiary), collect the rents and profits therefrom and apply the same, after payment of costs, charges and expenses, to the payments of amounts

due to Beneficiary during the pendency of any foreclosure either by advertisement and sale or by civil action. Any receiver appointed may serve without bond.

14. Reinstatement. In the event Beneficiary elects to foreclose this Deed of Trust by advertisement and sale in the manner provided in ORS 86.705 to 86.815, Grantor and certain other persons specified by those statutes shall have the right, at any time prior to five days before the date set by Trustee for the trustee's sale, to cure Grantor's default by payment to Beneficiary of the entire amount then due, other than such portion of the principal of the Note and any other instruments secured by this Deed of Trust as would not then be due had no default occurred, plus all costs and expenses incurred and all fees provided by those statutes.

15. Security Agreement and Assignment. This Deed of Trust, without affecting its validity as a real estate trust deed and mortgage, is also executed, and shall be construed as a security agreement under the Oregon Uniform Commercial Code granting to Beneficiary a security interest in all the Personal Property and an assignment to Beneficiary in and to any "contract vendor" or similar interest of Grantor in and to the Property. In addition to the rights and remedies provided herein, Beneficiary shall have all the rights and remedies granted by such Uniform Commercial Code; and reasonable notice, when notice is required, shall be ten (10) days. Grantor covenants and agrees to execute and file financing statements and similar instruments deemed necessary or desirable by Beneficiary to perfect, continue and renew said security interest and assignment.

16. Consent to Modifications. In the event Beneficiary consents to the transfer of the Property or any part thereof or any interest therein, and such a transfer is made, Beneficiary may, without notice to Grantor or any one else, once or often, extend the time of payment or grant renewals of the debt hereby secured for any term, execute releases or partial releases from the lien of this Deed of Trust or in any other respect modify the terms hereof without thereby affecting the primary liability of Grantor for the payment of the debts and performance of the obligations hereby secured.

17. Waiver. No covenant, agreement or condition of this Deed of Trust shall be deemed waived unless expressly waived in writing by Beneficiary. The failure of Beneficiary at any time to require strict performance by Grantor of any covenant, agreement or condition shall not estop or otherwise affect Beneficiary's right to enforce the same nor shall any acceptance of partial payment on account, waiver or forbearance by Beneficiary be held to be a waiver of Grantor's default or the covenant, agreement, or condition itself or any future failure to perform the same.

18. Foreclosure Costs. In the event civil action is instituted to foreclose this Deed of Trust as a mortgage, which results in judgment against Grantor, Grantor agrees to pay all costs and disbursements allowed by law and such sum as the trial judge or appeal court may adjudge reasonable as attorney fees in such action, together with reasonable costs incurred by Beneficiary for title reports and title search, all such sums to be secured by the lien of this Deed of Trust and included in the decree of foreclosure.

19. Notices. Whenever any notice, demand, or request is required by the terms hereof or by any law now in existence or hereafter enacted, the notice, demand or request shall be sufficient if actually furnished to Grantor or mailed to Grantor by certified mail, return receipt

requested, in a postage prepaid envelope addressed to the last address of Grantor shown in Beneficiary's records. 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 Beneficiary's address, as shown near the beginning of this Deed of Trust. For notice purposes, Grantor agrees to keep Beneficiary and Trustee informed at all times of Grantor's current address.

20. [Reserved]

21. Transfer. So long as any indebtedness secured by this Deed of Trust remains outstanding and notwithstanding anything in the Loan Documents to the contrary, Beneficiary agrees that any member of Grantor may sell, transfer, pledge, assign or otherwise encumber or dispose of all or any part of its interest in Grantor in accordance with the terms and conditions of its Operating Agreement, without the prior written consent of Beneficiary.

22. Manager Change. The withdrawal, removal and/or replacement of the manager of the Grantor pursuant to the terms of the Operating Agreement shall not require Beneficiary notice or consent or constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan.

23. Amendments. 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. Applicable Law. This Deed of Trust shall be governed by the laws of the State of Oregon. 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 BENEFICIARY'S OPTION, AGREES TO SUBMIT TO THE JURISDICTION OF MULTNOMAH COUNTY, OREGON. GRANTOR AND BENEFICIARY HEREBY WAIVE THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER GRANTOR OR BENEFICIARY AGAINST THE OTHER.**

25. 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 Property at any time held by or for the benefit of Beneficiary in any capacity, without the written consent of Beneficiary.

26. 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.

27. 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 Property becomes vested in a person other than Grantor, Beneficiary, 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.

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

29. Commercial Deed of Trust. Grantor agrees with Beneficiary that this Deed of Trust is a commercial deed of trust and that Grantor will not change the use of the Property without Beneficiary's prior written consent.

30. Binding Effect. This Deed of Trust, and the warranties, covenants and agreements made herein, shall bind Grantor and Grantor's personal representatives, heirs, successors and assigns and inure to the benefit of Trustee, successor trustees, Beneficiary and Beneficiary's personal representatives, heirs, successors, and assigns.

***[Remainder of page intentionally left blank. Signature page follows.]***

IN WITNESS WHEREOF Grantor has executed this Deed of Trust as of the date first above written.

**EVERFREE HOMES, LLC**

By: [Signature]  
Matthew Bogatay, Manager

STATE OF OREGON                     )  
  ) ss.  
County of Klamath                     )

This instrument was acknowledged before me on this 18 day of November, 2024 by Matthew Bogatay, manager of Everfree Homes, LLC, on behalf of said company.

[Signature]  
Notary Public for Oregon  
Commission No.: 1041257  
My Commission Expires: 9/27/2027



**Exhibit A**  
**Legal Description**

An area of land in the Northeast Quarter of Section 14, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon. Being more particularly described as follows: Parcel 1 of Land Partition 6-24, being a replat of Parcel 3 of Land Partition 15-23.