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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
01/03/2017 13:53:20.00



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After recording please return to:
James E. Lang
Lang Law LLC
13340 California Street, Suite 203
Omaha, NE 68154

DEED OF TRUST

THIS DEED OF TRUST (“Deed of Trust”) is made as of the 28th day of December, 2016, by and among WOODLAND HOMES, INC., a Nebraska corporation, whose mailing address is 11205 South 150th Street, Suite 100, Omaha, Nebraska 68138, Attention: Gerald L. Torczon, President (“Trustor”); James E. Lang, whose mailing address is 13340 California Street, Suite 203, Omaha, Nebraska 68154 (“Trustee”); and Fred Hunzeker, whose mailing address is 3402 North 216th Plaza, Elkhorn, Nebraska 68022-2908 (“Beneficiary”).

FOR VALUABLE CONSIDERATION, Trustor irrevocably transfers, conveys, and assigns to Trustee, in trust, with power of sale, for the benefit and security of Beneficiary, its successors and assigns under and subject to the terms and conditions of this Deed of Trust, the real property located in Douglas County, Nebraska, and legally described as follows:

Lot 58, Whispering Ridge West, a subdivision, as surveyed,
platted and recorded in Douglas County, Nebraska

(the “Real Estate”), together with all rents, easements, appurtenances, hereditaments, interest in adjoining roads, streets, alleys, improvements, buildings of any kind situated thereon, and all personal property that may be or hereafter becomes an integral part of such buildings and improvements, and all water and mineral rights related thereto, which Real Estate and the entire estate and interest conveyed to the Trustee hereunder are hereinafter referred to collectively as the “Trust Estate”.

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1. Obligations to be Secured. This Deed of Trust is made for the purpose of securing:

(a) The payment of indebtedness in the total combined principal amount of One Million and no/100 Dollars (\$1,000,000.00), with interest thereon, as evidenced by those certain Term Loan Notes of even date therewith by and between Richland Homes, LLC, a Nebraska limited liability company, in the original principal amount of Two Hundred Sixty-Seven Thousand and no/100 Dollars (\$267,000.00), and Westbury Farm, LLC, a Nebraska limited liability company, in the original principal amount of Seven Hundred Thirty-Three Thousand and no/100 Dollars (\$733,000.00), affiliates of Trustor, respectively (collectively "Borrower"), and Beneficiary (collectively, the "Notes" and individually, a "Note"), which Notes are incorporated herein and made a part hereof by this reference; and

(b) The prompt, full and faithful performance and discharge as and when the same are due of each and every obligation, covenant and agreement due and owing or which may become due and owing at any time in the future by Trustor to Beneficiary under the Loan Agreements for Term Loans of even date hereof entered into among Richland Homes, LLC and Westbury Farm, LLC, affiliates of the Trustor, respectively, and Beneficiary (the "Loan Agreements") and this Deed of Trust.

This Deed of Trust, the Notes and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby are referred to collectively as the "Loan Instruments."

2. Representations and Warranties by Trustor. Trustor hereby represents and warrants as follows:

(a) Trustor has the legal capacity and full right, power and authority to execute, deliver and perform this Deed of Trust;

(b) Once executed and delivered, this Deed of Trust will constitute legal and binding obligations of Trustor and be enforceable against Trustor in accordance with their respective terms;

(c) Trustor is the legal and equitable owner of and is in possession of all the Trust Estate and the Trust Estate is free and clear of all liens, encumbrances, security interests, charges, adverse claims and encumbrances of every kind and nature, and Trustor shall and will warrant and defend the title to said Trust Estate against the claims of all persons whomsoever.

(d) There are no: (i) bankruptcy proceedings involving the Trustor and none is contemplated; (ii) dissolution proceedings involving Trustor and none is contemplated; (iii) unsatisfied judgments of record against Trustor; or (iv) tax liens filed against Trustor; and

(e) Trustor has good and lawful authority to pledge, assign and deliver the Trust Estate in the manner contemplated herein.

3. Covenants. In addition to and not in limitation of any other covenants, agreements or obligations required to be observed or performed by Trustor hereunder, Trustor hereby covenants and agrees as follows:

(a) to observe and promptly perform and discharge all obligations, terms, covenants, understandings, conditions or agreements required to be performed or observed by Trustor pursuant to the Loan Instruments; and

(b) to pay when due all assessments on or against the Trust Estate that arise or are payable at any time on or after the date hereof and to not suffer or permit the same to become delinquent or be in default.

4. Taxes. Trustor agrees to pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Trust Estate or any part thereof, promptly when the same are due and before delinquency, without notice or demand, and shall provide Beneficiary with evidence of the payment of same. Trustor shall pay all taxes and assessments which may be levied upon Beneficiary's interest herein or therein or upon this Deed of Trust or the debt secured hereby without regard to any law that may be enacted requiring payment of the whole or any part thereof by Beneficiary.

5. Insurance. So long as this Deed of Trust shall remain in effect, Trustor agrees to purchase and maintain in force broad form property casualty insurance insuring the Real Estate and all improvements, buildings or structures located thereon in an amount of their full replacement value against loss by fire or other casualty.

6. Maintenance and Repairs. Trustor agrees to keep the Real Estate in a neat, clean and sanitary condition, and to promptly repair, maintain and replace the Trust Estate or any part thereof so that, except for ordinary wear and tear, the Trust Estate shall not deteriorate. In no event shall Trustor waste on or to the Trust Estate.

7. Actions Affecting Trust Estate. Trustor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee and shall pay all costs and expenses, including cost of evidence of title and attorney fees, in any such action or proceeding in which Beneficiary or Trustee may appear. Should Trustor fail to make any payment or to do any act as and in the manner provided in any of the Loan Instruments, Beneficiary and/or Trustee, each in its own discretion, without obligation so to do and without notice to or demand upon Trustor and without relieving Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Trustor shall, immediately upon demand therefor by Beneficiary, pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, including, without limitation, costs of evidence of title, court costs, appraisals, surveys and attorney fees.

8. Eminent Domain. Should the Trust Estate, or any part thereof or interest therein, be taken or damaged by reason of any manner including deed in lieu of condemnation ("Condemnation"), or should Trustor receive any notice or other information regarding such

proceeding, Trustor agrees to give prompt written notice thereof to Beneficiary. Beneficiary or its successors or assigns shall be entitled to all compensation, awards, and other payments or relief therefor and shall be entitled at his, its or their option to commence, appear in, and prosecute in its own name any action or proceedings. Beneficiary or its successors or assigns shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action, and proceeds awarded to Trustor (the "Proceeds") are hereby assigned to Beneficiary, and Trustor agrees to execute such further assignments of the Proceeds as Beneficiary or Trustee may require.

9. Events of Default. Any of the following events shall be deemed an event of default hereunder:

(a) Borrower's failure to make payment of any installment of interest, principal or any other sum secured hereby when such payment is due, which failure is not satisfied within ten (10) days following the Trustee's receipt of written notice of nonpayment from Beneficiary;

(b) Borrower's failure to observe or perform any obligation, term, covenant, understanding, condition or agreement, or the provisions required to be performed or observed by Trustor or Borrower under the terms of any of the Loan Instruments (which includes the Loan Agreements), which failure is not satisfied within thirty (30) days following the Trustor's receipt of written notice of such failure from Beneficiary, or in the case of a failure that cannot be reasonably cured within thirty (30) days, such longer period as may be reasonable, provided Trustor immediately undertakes such action as may be reasonably necessary to correct such failure and thereafter diligently pursues the cure of such failure to the Beneficiary's reasonable satisfaction;

(c) Any representation or warranty given by Borrower in any of the Loan Instruments being false or becoming false at any time in the future in any material respect;

(d) Trustor's sale or transfer of all or any part of the Trust Estate or an interest therein without Beneficiary's prior written consent, which consent shall be reasonably granted; and/or

(e) Trustor making an assignment for the benefit of its creditors, or admitting in writing its inability to pay its debts as they become due, or filing a petition in bankruptcy, or being adjudicated bankrupt or insolvent, or filing a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or filing an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, or not having such a petition dismissed or vacated within sixty (60) days after filing, or seeking or consenting to or acquiescing to the appointment of any trustee, receiver or liquidator of a material part of its properties, or not having said appointment of such trustee, receiver or liquidator vacated within sixty (60) days of such appointment.

10. Remedies. Should an event of default occur, Beneficiary may:

(a) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; or

(b) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold, which notice Trustee shall cause to be duly filed for record in the appropriate official records of the county in which the Trust Estate is located.

11. Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the Power of Sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Notes and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published, and delivered to Trustor such Notice of Default and Notice of Sale as then required by law and this Deed of Trust. Trustee shall, without demand on Trustor, after such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by it in such Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation Trustor, Trustee, and Beneficiary, may purchase at such sale and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(b) As may be permitted by law, after deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of any sale to the payment of (i) all sums expended under the terms hereof not then repaid; (ii) all other sums then secured hereby; and (iii) the remainder, if any, to the person or persons legally entitled thereto.

(c) Trustee may, in the manner provided by law, postpone sale of all or any portion of the Trust Estate.

12. Due on Sale. Upon the sale or transfer of all or any part of the Trust Estate without the Beneficiary's prior written consent, the Beneficiary may at its option declare all sums secured by this Deed of Trust to be immediately due and payable. Sale or transfer means the conveyance of the Trust Estate or any right, title or interest in the Trust Estate, whether legal, beneficial or equitable.

13. Appointment of Successor Trustee. Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the county in which the Trust Estate is located, and by otherwise complying with the provisions of the applicable law of the State of Nebraska, substitute a successor or successors to the Trustee named herein or acting hereunder.

14. Successors and Assigns. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, personal representatives, successors, and assigns. The term "Beneficiary" shall mean the owner and holder of a Note, whether or not named as a Beneficiary herein.

15. Inspections. Beneficiary or its agents, representatives or workmen are authorized to enter at any reasonable time upon or in any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Instruments.

16. Request for Notice. Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in the first paragraph of this Deed of Trust.

17. Governing Law. This Deed of Trust shall be governed by the laws of the State of Nebraska. In the event that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflicts shall not affect the provisions of such Loan Instruments which can be given effect without the conflicting provision and, to this end, the provisions of the Loan Instruments are declared to be severable. This instrument cannot be waived, changed, discharged, or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge, or termination is sought.

18. Reconveyance by Trustee. Upon written request of Beneficiary stating that all obligations secured hereby have been paid or performed in full, and upon surrender of this Deed of Trust and the Notes to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's fees, if any, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons entitled thereto."

19. Notices. Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request, or other communication with respect to this Deed of Trust, unless notice is required by law to be given by another method, each such notice, demand, request, or other communication shall be in writing and shall be effective on delivery if the same is delivered by personal service two (2) days following posting if mailed by certified mail or reputable overnight carrier, postage prepaid, return receipt requested, addressed to the addresses set forth at the beginning of this Deed of Trust. Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

20. Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed by Trustor and acknowledged, is made a public record as provided by law.

21. Counterparts. This Deed of Trust may be executed in one or more counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

22. **CREDIT AGREEMENT NOTICE.** A credit agreement must be in writing to be enforceable under Nebraska law. To protect Trustor and Beneficiary from any misunderstandings or disappointments, any contract, promise, undertaking, or offer to forebear repayment of money or to make any other financial accommodation in connection with the loan of money secured hereby or grant or extension of credit, or any amendment of, cancellation of, waiver of, or substitution for any or all of the terms or provisions of any instrument or document executed in connection with the loan of money secured hereby or grant or extension of credit, must be in writing to be effective.

IN WITNESS WHEREOF, this Deed of Trust is executed and entered into as of the day and year first above written.

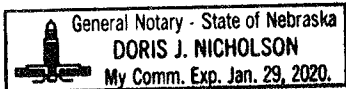
“TRUSTOR”

WOODLAND HOMES, INC., a Nebraska corporation

By: 
Gerald L. Torczon, President

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me on December 28, 2016, by Gerald L. Torczon, President of Woodland Homes, Inc., a Nebraska corporation, on behalf of the corporation.




Notary Public