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Capital Fund I, LLC ISAOA

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Date:3/9/2023

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

THIS IS A FIRST POSITION DEED OF TRUST AND RESTRICTIONS HEREIN PROHIBIT ANY FURTHER ENCUMBERANCE OF THE PROPERTY WITHOUT BENFICIARIES WRITTEN CONSENT AND APPROVAL. THIS DEED OF TRUST ALSO CONTAINS A DUE ON SALE CLAUSE.

DEED OF TRUST AND ASSIGNMENT OF RENTS

Loan Number: 27450

TRUSTOR: Sharon Chu, a married woman as her sole and separate property ("Borrower")
Address: 4723 Ivanhoe St Houston TX 77027

BENEFICIARY: Capital Fund I, LLC ISAOA
An Arizona Limited Liability Company ("Lender")
Address: 14555 N Scottsdale Road Suite #200 Scottsdale, AZ 85254

TRUSTEE: Chris Ferguson, managing attorney of Jack O'Boyle and Associates, a professional limited liability company
Address: PO Box 815369
Dallas TX 75381

PROPERTY in Harris County, State of Texas, described as:

Lot 9, Block 2, of North Ennis Townhomes, an addition in Harris County, Texas, according to the map or plat, thereof recorded in Film Code No. 608290 of the Map Records of Harris County, Texas.

S. C. Initial

RP-2023-87047

UNOFFICIAL COPY

1292130020009

Street Address: 17 N Ennis St, Houston TX 77003

This Deed of Trust, made on the above date by the Borrower named above, to the Trustee named above, for the use and benefit of the Lender named above,

WITNESSETH THAT Borrower does hereby irrevocably grant, bargain, sell and convey to Trustee, in trust, with power of sale, the above-described real property;

TOGETHER WITH all the improvements now or hereafter erected on the Property, and all easements, appurtenances and fixtures now or hereafter a part of the Property, and all rents, issues and profits thereof, **SUBJECT, HOWEVER,** to the right, power and authority hereinafter given to and conferred upon Lender to collect and apply such rents, issues and profits. All replacements and additions also shall be covered by this Deed of Trust. All of the foregoing is referred to in this Deed of Trust as the "Property."

FOR THE PURPOSE OF SECURING:

- A. Performance of each and every agreement of Borrower herein contained.
- B. Payment of the principal sum of two hundred and five thousand dollars and zero cents (U.S. \$205,000.00). This debt is evidenced by Borrower's PROMISSORY NOTE dated the same date as this Deed of Trust, which matures on 03/01/2024, unless that date is extended or accelerated, together with all renewals, extensions and modifications thereof (collectively, if applicable, the "Note").
- C. Payment of additional sums and interest thereon, which may be advanced under the Note, in order to preserve and protect the Property.

COVENANTS. Borrower and Lender covenant and agree as follows:

1. Borrower has the right to grant and convey the Property under this Deed of Trust, and that the Property is unencumbered, except for encumbrances of record as of the date of this Deed of Trust. Borrower warrants and will defend the title to the Property against all claims and demands, subject to any encumbrances of record as of the date of this Deed of Trust.
2. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

If Lender receives a payment from Borrower for a delinquent periodic payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one periodic payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the periodic payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more periodic payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or miscellaneous proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the periodic payments.

3. Unless applicable law provides otherwise, all payments received by Lender under Paragraph 2 shall be applied first in payment of any costs or charges, then to Default Interest (as defined in the Note) accrued, then to interest accrued, and then to a reserve until otherwise directed by Borrower.

4. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust, and leasehold payments or ground rents, if any. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Paragraph 4. Borrower shall promptly furnish to Lender receipts evidencing the payment of such taxes, assessments, charges, fines and impositions.

5. Borrower shall promptly discharge any lien that has priority over this Deed of Trust unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Deed of Trust. If Lender determines that any part of the Property is subject to a lien, which may attain priority over this Deed of Trust, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more actions set forth above within 10 days of the date of the notice.

6. Borrower shall keep the Property in good condition and repair; not remove or demolish any building thereon unless part of the construction plan approved in writing by Lender; complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed on the Property and pay when due all claims for labor performed and materials furnished on the Property; comply with all laws affecting the Property or requiring any alterations or improvements to be made thereon; not commit or permit waste thereof; not to commit, suffer or permit any act upon said Property in violation of law; cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said Property may be reasonably necessary, the specific enumerations herein not excluding the general.

7. Borrower shall keep the Property and improvements now existing or hereafter erected on the Property insured against loss by fire, hazards as set forth in the Hazard Insurance Requirements Acknowledgement and Agreement executed by Borrower of even date herewith ("Insurance Agreement") included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance and general liability insurance on the Property satisfactory to and with loss payable to Lender. Proof of said insurance must be provided to Lender by Borrower prior to funding. Failure to provide proof of insurance will result in immediate default hereunder. Upon any such default, Lender shall have the right, at its election, to purchase said insurance for Property, and charge all costs to the principal balance of the Note which will accrue interest at the same rate set forth as default interest in the Note.

The amount collected under any fire or other insurance policy shall be applied to any indebtedness secured hereby and in such order as Lender may determine. Such applications or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

8. Borrower shall appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Lender or Trustee may appear.

9. Borrower shall pay immediately and without demand all sums expended by Lender or Trustee pursuant to the provisions hereof, with interest from date of expenditure, at the rate of Default interest found on the Note.

10. Borrower shall not cause or permit the presence, use, disposal, storage or release of any Hazardous Substances on or in the Property. Borrower shall not do or allow anyone else to do anything affecting the Property that is in violation of any Environmental Law. The preceding

two sentences shall not apply to the presence, use or storage on the Property of small immaterial quantities of Hazardous Substances that are generally recognized to be appropriate to normal cleaning and maintenance purposes of a residential property. Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory authority or private party involving the Property or any violation of any Hazardous Substance or Environmental Law of which Borrower has actual or constructive knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removable or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall, at its sole cost, promptly take all necessary remedial actions in accordance with Environmental Law. Borrower hereby agrees to defend, indemnify and hold harmless Lender, its directors, officers, employees, agents, successors and assigns, from and against any and all losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including without limitation, attorneys' fees and expenses) which Lender may incur as a direct or indirect consequence of the use, generation, manufacture, storage, treatment, disposal, release or threatened release, transportation or presence of Hazardous Substances in, on, under or about the Property. Borrower shall pay to Lender immediately upon demand any amounts owing under this indemnity, together with interest from the date of demand until paid in full at the highest rate of interest applicable to the Note. Borrower's duty and obligation to defend, indemnify and hold harmless Lender shall survive the cancellation of the secured obligations and the release, reconveyance or partial reconveyance of this Deed of Trust. As used in this paragraph 10, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides or herbicides, volatile solvents, materials containing asbestos, formaldehyde or dioxins, and radioactive materials. As used in this Paragraph 10, "Environmental Law" means all federal laws and laws of the state, county and city of the jurisdiction where the Property is located that relates to health, safety or environmental protection.

11. Should Borrower fail to make any payment or to do any act as herein provided, the Lender or Trustee, but without obligation to do so, and without notice to or demand upon Borrower and without releasing Borrower from any obligation hereof, may: (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Lender or Trustee being authorized to enter upon the Property for such purposes; (b) appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender or Trustee; (c) pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and (d) in exercising any such powers, or in enforcing this Deed of Trust by foreclosure, pay necessary expenses, employ counsel and pay his reasonable fees. Any amounts disbursed by Lender under this Paragraph 11 shall become additional debt of Borrower's, secured by this Deed of Trust unless Borrower and Lender agree to terms of payment, these amounts shall be payable, with interest, upon demand from Lender to Borrower.

12. This Deed of Trust is not a residential mortgage loan as defined under 15 USC § 1602 (cc) (5). This Deed of Trust is for non-occupancy only. Borrower shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Lender has agreed in writing to the change. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property. Borrower, its agents, shareholders, members or managers shall not occupy this home for the purpose of a primary residence at any time. Occupancy by the Borrower, its agents, shareholders, members or managers shall create a default under this Deed of Trust and Lender may require immediate payment in full of all sums secured by this Security Instrument.

13. As used herein, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the

intent of which is the transfer of title by Borrower at a future date to a purchaser.

14. If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial Interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Lender if such exercise is prohibited by applicable law.

15. It is expressly stipulated and agreed to be the intent of Borrower and Lender at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the indebtedness, or applicable United States federal law to the extent that such law permits Lender to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law. If the applicable law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received in respect of the indebtedness, including by reason of the acceleration of the maturity or the prepayment thereof, then it is Borrower's and Lender's express intent that all amounts charged in excess of the Maximum Lawful Rate (as hereinafter defined) shall be automatically canceled, ab initio, and all amounts in excess of the Maximum Lawful Rate theretofore collected by Lender shall be credited on the principal balance of the indebtedness (or, if the indebtedness has been or would thereby be paid in full, refunded to Borrower), and the provisions of the Note and the other loan documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable laws, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if the Note has been paid in full before the end of the stated term hereof, then Borrower and Lender agree that Lender shall, with reasonable promptness after Lender discovers or is advised by Borrower that interest was received in an amount in excess of the Maximum Lawful Rate, either credit such excess interest against the indebtedness then owing by Borrower to Lender and/or refund such excess interest to Borrower. Borrower hereby agrees that as a condition precedent to any claim seeking usury penalties against Lender, Borrower will provide written notice to Lender, advising Lender in reasonable detail of the nature and amount of the violation, and Lender shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Borrower or crediting such excess interest against the indebtedness then owing by Borrower to Lender. All sums contracted for, charged, taken, reserved or received by Lender for the use, forbearance or detention of the indebtedness shall, to the extent permitted by applicable law, be amortized, prorated, allocated or spread, using the actuarial method, throughout the stated term of the Note (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the indebtedness does not exceed the Maximum Lawful Rate from time to time in effect and applicable to the indebtedness for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note or any other part of the indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other loan documents, it is not the intention of Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration. The terms and provisions of this Section shall control and supersede every other term, covenant or provision contained herein, in any of the other loan documents or in any other document or instrument pertaining to the indebtedness.

16. Any award of damages in connection with any condemnation for public use of or injury to said Property or any part thereof is hereby assigned and shall be paid to Lender who may apply or release such monies received by it in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

17. TIME IS OF THE ESSENCE IN EACH COVENANT OF THIS DEED OF TRUST; and that by accepting payment of any sums secured hereby after its due date, Lender does not

waive its right either to require prompt payment when due of all other sums or to declare default for failure to pay.

18. That at any time or from time to time, and without notice, upon written request of Lender and presentation of this Deed of Trust and said Note(s) for endorsement, and without liability therefore, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by the Trustee's action be credited on the indebtedness, the Trustee may: (a) release and reconvey all or any part of the Property; (b) consent to the making and recording, or either, of any map or plat of the property or any part thereon; (c) join in granting any easement thereon; (d) join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance, or charge hereof.

19. That as additional security, Borrower hereby gives to and confers upon Lender the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of the Property, reserving to Borrower the right, prior to any default by Borrower in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Lender may at any time, without notice, either in person, by agent, or by a receiver to be appointed upon ex parte application to any court of competent jurisdiction, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in its own name sue for or otherwise collect such Property income, including that past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Lender may determine. The entering upon and taking possession of the Property, the collection of such Property income, rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to said notice.

20. The failure of Borrower to comply with the terms of the Note or this Deed of Trust, which secures the Note shall constitute and immediate default hereunder, and also an immediate default as to all other notes and deeds of trust between the parties. Upon any such default, Lender shall have the right, at its election, to accelerate immediately the Note, and proceed to enforce all of Lender's rights, in accordance with Texas law, including without limitation, the right to foreclose any or all of the deeds of trusts and pursue a deficiency judgment(s), and pursue the Guarantors together or separately on contract.

21. If a default occurs on this Deed of Trust, Lender, at its option, in addition to other remedies provided at law, may declare all sums secured by this Deed of Trust immediately due and payable and may, at Lender's option, direct Trustee to foreclose upon the Property in accordance with Chapter 51 of the Texas Property Code, as the same may be amended from time to time.

Trustee, when requested to do so by Lender after such a default as aforesaid, shall sell all or any portion of the Property at public auction, to the highest bidder for cash, at the county courthouse of the county in Texas in which the Property or any part thereof is situated in the area in or about such courthouse designated for real property foreclosure sales in accordance with applicable law (or in the absence of such designation, in the area set forth in the notice of sale hereinafter described), between the hours of 10:00 o'clock A.M. and 4:00 o'clock P.M., on the first Tuesday of any month, after giving notice of the time, place and terms of said sale, and of the property to be sold in accordance with applicable laws in the State of Texas in effect at the time such notice is given, provided however, such sale shall begin at the time stated in such notice or within three (3) hours thereafter.

Notice of such proposed sale shall be given by posting written notice of the sale at the courthouse, and, except as otherwise permitted or required by applicable law, by filing a copy of the notice in the office of the county clerk of the county in which the sale is to be made at least twenty-one (21) days preceding the date of the sale. If the Property to be sold is situated in more than one county, a notice shall be posted at the courthouse and filed with the county clerk of each county in which the Property to be sold is situated. In addition, Lender shall, at least twenty-one (21) days preceding the date of sale, serve written notice of the proposed sale by certified mail on each debtor obligated to pay the debt secured hereby according to the records of Lender. Service of such notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to such debtor at the most recent address as shown by the records of Lender, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service.

Any notice that is required or permitted to be given to Borrower may be addressed to Borrower at Borrower's address as stated on the first page hereof. Any notice that is to be given by certified mail to any other debtor may, if no address for such other debtor is shown by the records of Lender, be addressed to such other debtor at the address of Borrower as is shown by the records of Lender. Trustee may appoint any attorney-in-fact or agent to act in his or her stead as Trustee to perform all duties of the Trustee authorized herein. Borrower authorizes and empowers Trustee to sell the Property, together or in lots or parcels, as Trustee shall deem expedient; to receive the proceeds of said sale; and to execute and deliver to the purchaser or purchasers thereof good and sufficient deeds of conveyance thereto by fee simple title, with covenants of general warranty, and Borrower binds itself, himself or herself to warrant and forever defend the title of such purchaser or purchasers. Trustee may postpone the sale of all or any portion of the Property by public announcement made at the initial time and place of sale, and from time to time later by public announcement made at the time and place of sale fixed by the preceding postponement. Any person, including Borrower, Trustee, or Lender, may purchase at such sale. Lender may offset its bid at such sale to the extent of the full amount owed to Lender under the loan documents, including, without limitation, Trustee's fees, expenses of sale, and costs, expenses, and attorney fees incurred by or on behalf of Lender in connection with collecting, litigating, or otherwise enforcing any right under the loan documents.

The proceeds or avails of any sale made under or by virtue of this Deed of Trust, together with any other sums secured by this Deed of Trust, which then may be held by the Trustee or Lender or any other person, shall be applied as follows: (1) To the payment of the costs and expenses of such sale, including Trustee's fees, costs of title evidence, attorney fees, and reasonable compensation to Lender and its agents and consultants, and of any judicial proceedings in which the same costs and expenses of sale may be made, and of all expenses, liabilities, and advances made or incurred by the Trustee or Lender under this Deed of Trust, together with interest at the rate set forth in the Note on all advances made by the Trustee or Lender and all taxes or assessments, except any taxes, assessments, or other charges subject to which the Property was sold; (2) to the payment of the whole amount then due, owing, or unpaid on the Note for interest and principal, with interest on the unpaid principal at the Default Rate (as defined in the Note), from the due date of any such payment of principal until the same is paid; (3) to the payment of any other indebtedness required to be paid by Borrower under any provision of this Deed of Trust, the Note, or any of the other loan documents; and (4) to the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive it.

If the indebtedness secured hereby is secured by one or more other Deeds of Trust, then upon default of Borrower in the payment of said indebtedness or performance of any other agreements with Lender, the Trustee may sell Property subject to this Deed and to any other Deeds of Trust securing said indebtedness at Trustee's sale conducted serially.

22. That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Lender shall mean the owner and holder of the Note secured hereby; or, if the Note has been pledged, the pledgee thereof. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

23. The Trustee shall be deemed to have accepted the terms of this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. The Trustee shall not be obligated to notify any party to this Deed of Trust of any pending sale under any other Deed of Trust or of any action or proceeding in which Borrower, Lender, or Trustee is a party, unless such sale relates to or reasonably might affect the Property, this Deed of Trust, Lender's security for the payment of the Note and the performance of Borrower's obligations, or the rights or powers of Lender or Trustee under the loan documents, or unless such action or proceeding has been instituted by Trustee against the Property, Borrower, or Lender.

In case of any sale hereunder, all prerequisites to the sale shall be presumed to have been performed, and in conveyance given hereunder, all statements of facts or other recitals made therein as to any of the following, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true; i.e., the nonpayment of money secured; the request to Trustee to enforce this trust; the proper and due appointment of any substitute trustee; the advertisement of sale or time, place and manner of sale; or any other preliminary fact or thing. Trustee shall not be liable for any action taken or omitted to be taken by Trustee in good faith and reasonably believed to be within the discretion or power conferred upon Trustee by this Deed of Trust and shall be answerable only for losses occurring through his or her gross negligence or willful misconduct. Borrower agrees to save and hold Trustee and Lender harmless from all loss and expense, including reasonable attorney fee, costs of a title search or abstract, and preparation of survey, incurred by reason of any action, suit or proceeding (including an action, suit or proceeding to foreclose or to collect the debt secured hereby) in and to which Trustee or Lender may be or become a party by reason hereof, including but not limited to, condemnation, bankruptcy and administration proceedings, as well as any other proceeding wherein proof of claim is required by law to be filed or in which it becomes necessary to defend or uphold the terms of this Deed of Trust, and in each such instance, all money paid or expended by Trustee or Lender, together with interest thereon from date of such payment at the rate set forth in said Note or at the Default Rate, whichever is higher, shall be so much additional indebtedness secured hereby and shall be immediately due and payable by Borrower.

24. Lender may, for any reason or cause, from time to time remove Trustee and appoint a substitute/successor trustee to any Trustee appointed hereunder, and when any such substitution has been filed for record in the Office of the Recorder of the County in which the Property herein described is situated, it shall be conclusive evidence of the appointment of such trustee or trustees. Without conveyance to the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

25. The Note or a partial interest in the Note (together with this Deed of Trust) may be sold one or more times without notice to Borrower. A sale may result in the change of the person who collects monthly payments due under the Note and this Deed of Trust.

26. To the extent permitted by law, Borrower hereby waives all rights to any homestead or other exemption to which Borrower would otherwise be entitled under any present or future constitutional, statutory, or other provision of applicable state or federal law.

27. If any term or provision of this Deed of Trust is held invalid or unenforceable by a court or arbitrator of competent jurisdiction, such terms shall be reduced or otherwise modified by such court or arbitrator to the minimum extent necessary to make it valid and enforceable. If such term or provision cannot be so modified, it shall be severed, and the remaining terms and

provisions of this Deed of Trust shall be interpreted in such a way as to give maximum validity and enforceability to this Deed of Trust. The remaining terms and provisions hereof shall continue in full force and effect.

28. During a default under this Deed of Trust, any and all rents collected or received by Borrower shall be accepted and held for Lender in trust and shall not be commingled with Borrower's funds and property, but shall be promptly paid over to Lender. This instrument constitutes an assignment of rents and a security instrument under Chapter 64, Texas Property Code (SB 889 as enacted June 2011) and affords Lender, as beneficiary hereunder, all rights and remedies of an assignee under Chapter 64, Texas Property Code. This assignment of rents secures the Note, and a security interest in all rents from the Property is hereby created under Chapter 64 of the Texas Property Code to secure the Note.

If the Lender deems it necessary or convenient to have the rents collected by a receiver appointed for that purpose following an event of default, the Lender may apply to a court of competent jurisdiction for the appointment of a receiver of the Property, without notice and without regard for the adequacy of the security for the Note and without regard for the solvency of Borrower, any guarantor, or of any person, firm or other entity liable for the payment of the Note and shall have a receiver appointed. The Borrower further hereby consents to the appointment of a receiver should Lender elect to seek such relief.

29. No portion of the indebtedness secured by this Deed of Trust shall be or be deemed to be offset or compensated by all or any part of any claim, cause of action, counterclaim, or cross-claim, whether liquidated or unliquidated, that Borrower may have or claim to have against Lender. To the extent permitted by law, Borrower expressly waives and relinquishes any and all rights and remedies under Sections 51.003, 51.004 and 51.005 of the Texas Property Code, as amended or re-codified (the "Deficiency Statutes"), including without limitation, the right to seek a credit against or offset of any deficiency judgment based on the fair market value of the Property sold at any judicial or non-judicial foreclosure; and to the extent permitted by law, Borrower agrees that Lender shall be entitled to seek a deficiency judgment from Borrower and/or any other party obligated on the Note secured hereby equal to the difference between the amount owing on the Note secured hereby and the foreclosure sales price. Alternatively, in the event the foregoing waiver is determined by a court of competent jurisdiction to be unenforceable, the following shall be the basis for the finder of fact's determination of the fair market value of the Property as of the date of the foreclosure sale in proceedings governed by any of the Deficiency Statutes: (a) the Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Property will be repaired or improved in any manner before a resale of the Property after foreclosure; (b) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Property for cash promptly (but not later than twelve (12) months) following the foreclosure sale; (c) all reasonable closing costs customarily borne by the seller in commercial real estate transactions should be deducted from the gross fair market value of the Property, including without limitation, brokerage commissions, title insurance premiums, cost of a survey, tax prorations, attorneys' fees, and marketing costs; (d) the gross fair market value of the Property shall be further discounted to account for any estimated holding costs associated with maintaining the Property pending sale, including without limitation, utilities expenses, property management fees, security, taxes and assessments (without duplication), and other maintenance, operational and ownership expenses; and (e) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Property must be given by persons having at least five (5) years' experience in appraising property similar to the Property and who have conducted and prepared a complete written appraisal of the Property and taking into consideration the factors set forth above.

30. NO FURTHER ENCUMBRANCES MAY BE RECORDED AGAINST THE REAL ESTATE WITHOUT THE PRIOR WRITTEN CONSENT OF LENDER. FAILURE TO COMPLY WITH THIS PROVISION SHALL CONSTITUTE AN EVENT OF DEFAULT AND, AT THE

LENDER'S OPTION, THE LOAN SHALL IMMEDIATELY BECOME DUE AND PAYABLE. CONSENT TO ONE FURTHER ENCUMBRANCE SHALL NOT BE DEEMED TO BE A WAIVER OF THE RIGHT TO REQUIRE SUCH CONSENT TO FUTURE OR SUCCESSIVE ENCUMBRANCES.

31. Except as provided in the Note and as otherwise provided herein, unless (and then to the extent not) prohibited by applicable law, the Borrower, and each surety, endorser, guarantor and other person liable or to become liable for payment of the Note:

- (i) waive: opportunity to cure breach or default; grace; all notices, demands and presentments for payment; all notices of dishonor, non-payment, acceleration of maturity or intention to accelerate maturity; protest; dishonor; all other notices whatsoever; and, diligence in taking any action to collect amounts secured hereunder or in the handling of any collateral securing the Note at any time; and,
- (ii) consent and agree (without notice of any of the following): to any substitution, subordination, exchange or release of any security for the Note or the release of any party primarily or secondarily liable on the Note; that the Lender shall not be required first to institute suit or exhaust his remedies against the Borrower or others liable or to become liable on the Note or to enforce his rights against them or any security therefor; and, to any extension, renewal, rearrangement, or postponement of the time or manner of payment of the Note and to any other indulgence with respect hereto or thereto. Borrower waives any right of redemption.

32. **PROPERTY INSURANCE DISCLOSURE. TEXAS FINANCE CODE SECTION 307.052 COLLATERAL PROTECTION INSURANCE NOTICE: (A) BORROWER IS REQUIRED TO (i) KEEP THE PROPERTY INSURED AGAINST DAMAGE IN THE AMOUNT SPECIFIED HEREIN; (ii) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER OR OTHERWISE AS PROVIDED HEREIN; AND (iii) NAME LENDER AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF A LOSS AS PROVIDED HEREIN; (B) SUBJECT TO THE PROVISIONS HEREOF, BORROWER MUST, IF REQUIRED BY LENDER, DELIVER TO LENDER A COPY (OR COPIES) OF THE POLICY (OR POLICIES) AND PROOF OF THE PAYMENT OF PREMIUMS; AND (C) SUBJECT TO THE PROVISIONS HEREOF, IF BORROWER FAILS TO MEET ANY REQUIREMENT LISTED IN THE FOREGOING SUBPARTS (A) OR (B), LENDER MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF BORROWER AT BORROWER'S EXPENSE.**

33. **THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

34. Upon payment of all sums secured by this Deed of Trust, Lender shall release this Deed of Trust without charge to Borrower. Borrower shall pay any recordation costs.

Request is hereby made that a copy of any notice of default and a copy of any notice of sale hereunder be mailed to Borrower at its/his/her address hereinbefore set forth.

Borrower hereby acknowledges that the financing being provided is being provided for the acquisition/financing of the Property, more specifically described above.

In the event the Property is a single-family residence, townhouse, condominium, or mobile home plus the land upon which that mobile home is located Borrower expressly warrants and represents to Lender that the Property represents a commercial purchase/finance, for profit venture, and that Borrower will not and has no intention of occupying the Property as a primary or secondary personal residence.

Borrower makes this Declaration and enters into this Deed of Trust of its/his/her own free will and has not been induced, compelled or coerced in any form whatsoever.

Borrower Initials SL

In addition, Borrower therefore expressly covenants and warrants that it/he/she is an investor, engaged in the business of constructing, remodeling and selling dwellings and that the financing obtained from Lender was in the course of that business with the intent to construct and sell the Property to another person.

Borrower agrees and acknowledges that his/her Borrower Certificate, Declaration and the representations contained herein are a material inducement for the Lender to fund the Note; and that Borrower acknowledges that the Lender would not have considered funding the loan if this certification, declaration and representation was not tendered by Borrower.

Borrower understands that the Lender is providing private money for loan funds and that the Lender is a private money source, who is not operating under any guidelines of Licenses, or under the supervision of any State Banking Department or other Governmental Agency. Borrower represents that it/he/she has performed its/his/her due diligence and agrees that the interest rate of the Note is the fair market rate in for this type of financing.

Borrower certifies that the loan funds provided will in no way be considered a "Consumer Loan" because Borrower is representing itself or himself or herself as a professional real estate investor.

Borrower acknowledges that it/he/she had multiple sources for the funding of the subject loan and has selected the Lender for various business and economic reasons.

UNOFFICIAL COPY

RP-2023-87047

BORROWER: Sharon Chu, a married woman as her sole and separate property

SIGNATURE: Sharon Chu 3/10/23
By: Sharon Chu DATE

STATE OF TX)
County of Harris)

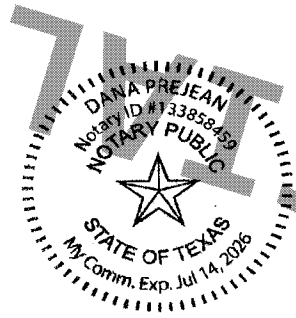
This Instrument was acknowledged before me this 10 day of March, 2022³ (2P)

By: Sharon Chu

WITNESS my hand and official seal.

My Commission Expires:
7/14/2026

Dana Prejean
Notary Public



COPY UNOFFICIAL

RP-2023-87047

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RP-2023-87047
Pages 13
03/13/2023 01:52 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
TENESHIA HUDSPETH
COUNTY CLERK
Fees \$62.00

UNOFFICIAL COPY

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Teneshia Hudspeth
COUNTY CLERK
HARRIS COUNTY, TEXAS

COPY