

SKYRIDGE

MOUNTAIN COMMUNITY

PERFORMANCE DEPOSIT AGREEMENT

This PERFORMANCE DEPOSIT AGREEMENT (this "Agreement") is entered into on this _____ day of _____, 2024, by and between _____, ("Owner"), _____, ("Guarantor") and SkyRidge Mountain Community Association, Inc., a Utah non-profit corporation (the "Association").

RECITALS

A. WHEREAS, the Association is a Utah non-profit corporation whose membership is comprised of all of the Homesite owners in that certain subdivision located in Wasatch County, State of Utah, commonly known as SkyRidge Mountain Community (the "Project");

B. WHEREAS, the Association is governed by its Board of Directors (the "Board"); and

C. WHEREAS, pursuant to that certain Declaration of Covenants, Conditions and Restrictions for SkyRidge recorded on June 24, 2019 in the Official Records of Wasatch County, Utah, as Instrument Number 465020 in Book 1255 at Page 1645-1772 (the "Declaration") (as the same has been amended and may be amended in the future), the Association has established an Architectural Review Committee (the "ARC") to promulgate and enforce the SkyRidge Architectural Guidelines (the "Guidelines") and the SkyRidge Construction Regulations (the "Regulations");

D. WHEREAS, Owner desires to construct certain improvements upon SkyRidge Homesite # _____ (the "Homesite") in the Project;

E. WHEREAS, as a condition to allowing Owner to construct improvements on the Homesite, the Owner and Guarantor are required to deposit the Performance Deposit with the Association as security for Owner's obligation to comply with the Architectural Guidelines, the Construction Regulations, the Declaration and the Rules and Regulations of the Association (collectively, the "Governing Documents"), including, without limitation, Owner's obligations not to trespass upon any other Homesites of the Project or damage any other Homesites or platted common areas (the "Common Areas") of the Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner, Guarantor, and the Association hereby agree as follows:

AGREEMENT

1. Performance Deposit. Contemporaneous with the execution of this Agreement by the Association, Guarantor shall pay a Performance Deposit (the "Deposit") in the amount of TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) to the Association at 1750 Sun Peak Drive, Suite 175, Park City, UT 84098. The Deposit shall be held by the Association in a non-interest-bearing escrow account until the ARC has confirmed, in its sole discretion, that all work required to complete construction, cure any Damage (as defined below) to the Homesite, other Homesites, or

the Common Area that occurred during construction, and clean-up of all of the Improvements on and around the Homesite has been satisfactorily completed.

2. Indemnity. Owner and Guarantor hereby agree to indemnify the Declarant, Association, or Board, the ARC, and all ARC Members and ARC Representatives and to hold those same parties harmless from all claims, costs, fees (including court costs, witness fees, and attorneys' fees), expenses, losses, Damage, and liability of any kind including, without limitation, mechanics' or materialmen's liens, which may be asserted against or incurred by SkyRidge Development, LLC, the Association, the Board, the ARC, and all of their respective members and representatives which arise from Owner and/or Guarantor's construction activities. The indemnity described in this Section Two (2) shall survive the final completion of all construction activities conducted on the Owner's Homesite.

3. Notice of Voluntary Lien. Upon tendering the Deposit and signing the Performance Agreement, the Owner shall also execute and deliver to the ARC a Notice of Voluntary Lien in the form attached hereto as EXHIBIT A. By signing below, Owner agrees that ARC may record the Notice of Voluntary Lien against the Homesite if Owner and/or Guarantor (or any of their respective agents or representatives, if applicable): (i) cause damage to any other Homesite or Common Area ("Damage") in an amount in excess of the Deposit and fail to cure the same to the satisfaction of the ARC; (ii) fail to replenish any portion of the Deposit used by the ARC to cure any Damage and/or Violation within ten (10) days after the ARC's request for the same; (iii) fail to respond in a timely manner to the ARC's written request to correct any Damage and/or Violation; (iv) fail to construct the Homesite Improvements in accordance with the ARC-approved and County-authorized Plans; (v) fail to comply with the Architectural Guidelines, Construction Regulations, and all applicable Governing Documents.

4. Enforcement of Governing Documents. The Association may inspect any Homesite for any Damage and/or violation by such Owner or Guarantor (or any of their respective agents or representatives, if applicable) of the Governing Documents, the ARC and County-approved plans for such Homesite, or state and local law (including but not limited to all zoning ordinances and/or building permit requirements) at any time during the term of this Agreement (a "Violation"). In the event such an inspection reveals Damage or other violations, the Association may issue an appropriate Notice of Violation to the Owner and Guarantor. If an Owner or Guarantor, after receipt of such Notice, fails to correct the Damage and/or Violation(s) within the time period for a response or cure set forth in the Notice (which time period shall be the amount of time deemed reasonably necessary under the circumstances by the Association in its sole discretion to cure said Damage or Violation(s)), the Association may repair or rectify the Damage and violation(s) at Owner and Guarantor's expense, by first using the Deposit, then charging to the Guarantor any amount in excess of the Deposit. After using all or any portion of the Deposit to correct Damage and/or violation(s), the Board shall immediately deliver written demand for, and the Owner or Guarantor shall promptly remit an amount sufficient to completely replenish the Deposit to the Association. If amount necessary to correct Damage and/or violation(s) exceeds the Deposit originally paid to the Association, Owner or Guarantor shall immediately reimburse the Association for said amount plus any amount required to replenish the Deposit.

5. Remedies on Default. Should Owner or Guarantor fail to comply with the obligations set forth in this Agreement within the time frames set forth for compliance herein or in any notice issued by the Association, Owner and Guarantor shall be in default of this Agreement, and the Association may: (i) record a lien on the

Homesite in an amount equal to the amount necessary to correct any Damage plus any amount required to replenish the Deposit, plus any attorneys' fees incurred by the Association in connection with the same; (ii) impose a fine which, in the reasonable discretion of the ARC, is commensurate with the severity of the Damage or violation(s) for which the lien is being recorded; or (iii) seek injunctive relief from a court of competent jurisdiction.

6. Inspections. At any time, the ARC may inspect any work in progress on a Homesite and, if warranted, issue a Notice of Noncompliance. Any Notice of Noncompliance issued with respect to a Homesite which is still under construction shall be set forth in reasonable detail both: (i) all aspects of the Homesite which are not in compliance with the Governing Documents; and (ii) the corrections required for compliance. If, by the end of the time period set forth in said Notice, the Owner and/or Guarantor have failed or refused to remedy the issues identified in the Notice, the ARC may take any action to correct the non-compliant condition permitted by the Governing Documents and warranted under the circumstances.

7. Final Inspection; Return of Deposit. Upon Owner or Guarantor's written request to the Association, and after the completion of all work to be formed on the Homesite, the ARC shall perform a Final Inspection of the Homesite, if such inspection both: (i) confirms that construction of the residence on the Homesite and any other improvements were completed in strict compliance with the ARC-approved plans; and (ii) does not reveal any Damage or other violations of the Governing Documents, the ARC shall issue a "Letter of Certification" to Owner. Within twenty (20) calendar days after Owner or Guarantor's submission of said Letter of Certification to the Association, the Association shall return the Deposit (or the balance thereof) to Owner or Guarantor, in accordance with their joint instructions. If, on the other hand, said final inspection: (a) reveals that the improvements on the Homesite were not in strict compliance with the ARC-approved plans; or (b) reveals Damage or other violations of the Governing Documents, the ARC will issue a Notice of Noncompliance to Owner and Guarantor denying a Letter of Certification setting forth in reasonable detail the reasons for such non-compliance and the corrections required for issuance of a Letter of Certification. If the ARC issues a Notice of Noncompliance under this Section, Owner and Guarantor may request a reinspection any time before the date which is one hundred and twenty (120) calendar days from the date of said Notice to remedy the issues identified in such Notice.

8. Forfeit of Deposit. Unless otherwise agreed in writing by the ARC, if Owner or Guarantor fail to complete all required landscaping, revegetation, clean-up, and other requirements of the Governing Documents before the one (1) year anniversary of Wasatch County's issuance of a Certificate of Occupancy, the Deposit shall be forfeited to the Association. In the case of a Homesite for which a Notice of Noncompliance has been issued, the Deposit shall be forfeited to the Association if the Homesite does not receive a Letter of Certification within one-hundred and twenty (120) calendar days from the date of Notice.

9. Notices. All notices, demands or other communications required or permitted to be given hereunder shall be in writing (email acceptable with confirmation of receipt). Any such communications shall be deemed to have been received upon: (i) personal delivery; (ii) as of 12:00 p.m. Noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service, addressed as shown below; or (iii) delivered by e-mail to the e-mail addresses set forth below.

Owner:

Guarantor:

The Association:

_____	_____	_____
_____	_____	_____
_____	_____	_____

Any address set forth above may be changed by the addressee providing the notice required by this Section.

10. Non-Waiver. Any failure to inspect, notify Owner or Guarantor of a violation, or to exercise any of the powers vested in the Association by this Agreement shall not be deemed to comprise: (i) approval of any work performed on the Homesite; (ii) a determination that any improvement is compliant with the Governing Documents or other applicable approvals, laws, or ordinances.

11. Further Acts. The parties hereto shall execute and deliver all documents, provide all information, and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

12. Attorneys' Fees. In any action or proceeding to enforce the terms of this Agreement or to redress any violation of this Agreement, the prevailing party shall be entitled to recover as damages its attorneys' fees and costs incurred, whether or not the action is reduced to judgment.

13. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and assigns.

14. Construction. The terms and conditions of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any party. The parties acknowledge that each of them has reviewed this Agreement and has had the opportunity to have it reviewed by their attorneys and that any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any amendment to this Agreement.

15. Dates. Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Agreement. If any date set forth in this Agreement for the delivery of any document or the happening of any event should, under the terms hereof, fall on a weekend or holiday, then such date shall be automatically extended to the next succeeding weekday that is not a holiday.

16. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the Custodial Escrow Account and supersedes all prior understandings and agreements between the parties. There are no promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between the parties other than as herein set forth.

17. Captions. The captions appearing at the commencement of the sections of this Agreement are descriptive only and for convenience in reference to this Agreement and shall not define, limit, or describe the scope or intent of this Agreement, nor in any way affect this Agreement.

18. Modifications to Agreement. No waiver, alteration, modification, or cancellation of any of the provisions of this Agreement shall be binding unless made in writing and signed by the parties.

19. Governing Law and Forum. The laws of the State of Utah applicable to contracts made or to be wholly performed there (without giving effect to choice-of-law or conflict-of-law principles) shall govern the validity, construction, performance and effect of this Agreement. Any lawsuit to interpret or enforce the terms of this Agreement shall be brought in the Fourth District Court in and for Wasatch County, Utah.

20. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, then such provision shall be construed and enforced as if it had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

21. Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first set forth above.

OWNER(S):

Name _____

Date _____

Name _____

Date _____

GUARANTOR(S):

Name _____

Date _____

THE ASSOCIATION:

SkyRidge Mountain Community Association, Inc., a Utah non-profit corporation By

Name _____

Its _____

Date _____

Date Paid: _____

Performance Deposit Agreement Check #: _____

WHEN RECORDED, RETURN TO:

SkyRidge Mountain Community Association
C/O Cooper's HOA Management
1750 Sun Peak Dr. Suite 175
Park City, UT 84098
Telephone: (435) 776-5013

Space above this line for Recorder's use

NOTICE OF VOLUNTARY LIEN

_____, (**“Owner”**) is the owner of that certain parcel of real property located in Wasatch County, Utah, as further described as follows:

Parcel No: _____

(the **“Property”**).

The Property is subject to that certain Performance Deposit Agreement and Instruction Agreement dated _____ (the **“Performance Deposit Agreement”**) entered into by Owner and Sky Ridge Mountain Community Association, Inc., a Utah non-profit corporation (the **“Association”**). The Performance Deposit Agreement requires that Owner or Guarantor place a deposit of Twenty Thousand Dollars (\$20,000.00) with the Association to be held in trust pending the completion of all construction and cleanup of all Improvement on and around the Property and Owner.

Owner hereby acknowledges that by the execution of this Notice of Voluntary Lien that Owner agrees that this Notice of Voluntary Lien shall be recorded against the Property in the event Owner or Guarantor fails to perform its duties as required in the Performance Deposit Agreement.

DATED this _____ day of _____, 2024.

OWNER:

STATE OF UTAH)
 :SS
COUNTY OF _____)

On this _____ day of _____, 2024, personally appeared before me _____, who upon oath did swear that he/she is empowered to sign the foregoing Notice of Voluntary Lien and acknowledged to me that he/she signed the same of his own free act and for its stated purpose.

NOTARY PUBLIC
Residing at: _____