

WHEN RECORDED, MAIL TO:
ZIONS FIRST NATIONAL BANK
2185 South 3270 West
West Valley City, Utah 84119

Title Company NEVADA TITLE
Commitment # 191016858

THIS SPACE IS FOR RECORDER'S USE ONLY

**ZIONS FIRST NATIONAL BANK
DEED OF TRUST WITH ASSIGNMENT OF RENTS
TO SECURE A HOME EQUITY CREDIT LINE AND DISCLOSURE AGREEMENT**

PRINCIPAL	LOAN DATE	ACCOUNT NUMBER	APPLICATION ID
\$ 15000.00	04/10/98	001000360004002455	274671

THIS DEED OF TRUST is made this 10th day of April 1998 among
SHANE R CHEENEY AND MELISSA CHEENEY, HUSBAND AND WIFE AS JOINT
TENANTS WITH RIGHT OF SURVIVORSHIP

(hereinafter referred to as "Trustor"), ZIONS FIRST NATIONAL BANK, a national banking association (hereinafter referred to as "Trustee"), and ZIONS FIRST NATIONAL BANK, a national banking association (hereinafter referred to as "Beneficiary").

WITNESSETH:

TRUSTOR, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, bargains, sells, conveys and warrants to Trustee, in trust, with power of sale, the following described property (the "Property") located in the County of LINCOLN, State of Nevada,

THAT CERTAIN PARCEL OF LAND SHOWN AS PARCEL NO. 3 OF THAT PARCEL MAP OF THE N1/2SE1/4SE1/4SW1/4 OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 67 EAST, M.D.B. & M., PREPARED AT THE INSTANCE OF VAUGHN AND DONNA PHILLIPS; WHICH SAID MAP WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF LINCOLN COUNTY, NEVADA, IN BOOK OF PLATS AS PAGE 227 ON THE 5TH DAY OF MARCH 1984.

APN 1997-1998: 01-191-15

which has the address of CHEENEY LOT PHILLIPS AVENUE, PIOCHE
NEVADA 89043

(hereinafter referred to as the "Property Address"); (Trustor's address, if different from the Property Address, is

TOGETHER with all improvements now or hereafter erected on the Property, and all easements, rights, appurtenances, fixtures, minerals and rents (subject however to the rights and authority herein given to Beneficiary to collect and apply such rents), all of which shall be deemed to be and remain a part of the Property covered by this Deed of Trust; and all of the foregoing, together with said Property (or the leasehold estate if this Deed of Trust is on a leasehold), are hereinafter referred to collectively as the "Property". This Deed of Trust is also a fixtures and mineral filing and is to be indexed as such in the real property records.

TO SECURE to Beneficiary all of the following described items (the "Indebtedness"):

1. The repayment of all indebtedness owed to Beneficiary under an open-end line of credit evidenced by and described in that certain AGREEMENT between Beneficiary and SHANE R CHEENEY AND MELISSA CHEENEY (the "Borrower") dated April 10, 1998, together with all modifications, amendments, extensions and renewals thereof (hereinafter referred to as the "Agreement"). Beneficiary shall make advances to Borrower pursuant to the terms and conditions of the Agreement, which advances shall be repaid in whole or in part from time to time by Borrower. The maximum amount outstanding on the line of credit shall not exceed the aggregate principal balance of Fifteen Thousand and 00/100 Dollars (\$ 15000.00). The indebtedness secured by this Deed of Trust, together with interest and other charges assessed on the unpaid balance thereof computed in accordance with the terms of the Agreement, shall be payable to Beneficiary in the manner and subject to the conditions set forth in the Agreement.
2. The payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust.
3. The performance of the covenants and agreements of Trustor contained in this Deed of Trust.

Trustor covenants that Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered, except for any exceptions to title listed in any title insurance policy or report issued in favor of Beneficiary in connection with this Deed of Trust acceptable to Beneficiary. Trustor covenants that Trustor warrants and will defend the lien created by this Deed of Trust and the title to the Property against all claims and demands subject to encumbrances of record.

Trustor covenants and agrees as follows:

1. **TAXES.** Trustor shall pay when due all taxes, special taxes, assessments, charges (including water and sewer) fines and impositions levied against or on account of the Property. Trustor shall keep the Property free and clear of all liens which have a priority over the interest of Beneficiary under this Deed of Trust except for the lien of any taxes and assessments not yet due and payable and other liens acceptable to Beneficiary. Upon demand, Trustor shall furnish to Beneficiary such evidence as Beneficiary may reasonably require, that Trustor has paid all taxes and assessments applicable to the Property. Trustor may withhold payment of any tax or assessment in connection with a good faith dispute over Trustor's obligation to pay such tax or assessment provided any such dispute is prosecuted with due diligence and Beneficiary's lien position is not jeopardized. Beneficiary retains the right to require Trustor to provide adequate assurances to Beneficiary that any dispute will not result in an impairment of Beneficiary's lien position granted by this Deed of Trust.
2. **PRIOR MORTGAGES AND DEEDS OF TRUST.** Trustor shall promptly perform all of Trustor's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over the lien of this Deed of Trust, including delivering to Beneficiary evidence of Trustor's prompt performance.
3. **HAZARD INSURANCE.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and such other hazards as Beneficiary may require, and in such amounts and for such periods as Beneficiary may require. Beneficiary shall be named as Loss Payee or Additional Insured, whichever may be appropriate, in all such insurance policies. The insurance carrier providing the insurance shall be chosen by Trustor subject to approval by Beneficiary, provided that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Beneficiary and shall include a standard mortgagee clause in favor of and in a form acceptable to Beneficiary. Beneficiary shall have the right to hold the policies and any renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over the lien of this Deed of Trust. At Beneficiary's request, Trustor will deliver certificates of insurance in form satisfactory to Beneficiary including endorsements that any coverage will not be cancelled or diminished without at least ten (10) days prior written notice to Beneficiary. Should the Property at any time become located in an area designated as a special flood hazard area, Trustor agrees to obtain and maintain Federal Flood Insurance to the extent such insurance is required and or becomes available for the term of the Indebtedness secured by this Deed of Trust and for the maximum balance available or the maximum limit of coverage that is available, whichever is less. In the event of loss, Trustor shall give prompt notice to the insurance carrier and Beneficiary. Beneficiary may make proof of loss if not made promptly by Trustor.

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4. PRESERVATION AND MAINTENANCE OF PROPERTY: LEASEHOLDS: CONDOMINIUMS: PLANNED UNIT DEVELOPMENTS. Trustor shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold. If this Deed of Trust is on a unit in a condominium or a planned unit development, Trustor shall perform all of Trustor's obligations under the declaration of covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

5. PROTECTION OF BENEFICIARY'S SECURITY. If Trustor fails to perform any covenants or agreements contained in this Deed of Trust, or if any action or proceeding is commenced which affects Beneficiary's interest in the Property, then Beneficiary, at Beneficiary's option, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Beneficiary's interest. Any amounts disbursed by Beneficiary pursuant hereto, with interest thereon, at the rate specified in the Agreement, shall become additional Indebtedness of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Trustor requesting payment thereof. Nothing contained in this Deed of Trust shall require Beneficiary to incur any expense or take any action hereunder. Any action taken by Beneficiary shall not be construed as curing any default by Trustor.

6. INSPECTION. Beneficiary may make or cause to be made reasonable entries upon and inspections of the Property, provided that Beneficiary shall give Trustor notice prior to any such inspection specifying reasonable cause therefor related to Beneficiary's interest in the Property.

7. APPRAISAL. Beneficiary may obtain appraisals of the Property and Trustor shall cooperate with Beneficiary and grant access to the Property for the purposes of completing any such appraisals. In the event that Beneficiary is required to obtain appraisals in order to comply with any law or regulation imposed by any government entity which has jurisdiction over Beneficiary, Trustor shall bear the cost of any such appraisal and Beneficiary is hereby authorized to add such cost to the Indebtedness secured hereby.

8. HAZARDOUS MATERIALS. Trustor hereby represents and warrants that no hazardous materials are or will be located on the Property and to the best of Trustor's knowledge no hazardous materials have been located on or disposed on or under the Property. Hazardous materials shall be defined as any items or substances identified as hazardous on any federal, state or local laws or regulations. Trustor shall give notice to Beneficiary immediately upon Trustor's obtaining knowledge that any hazardous material is located upon the Property and shall immediately remove such hazardous material in compliance with all laws relating to any such removal. Trustor hereby indemnifies and holds harmless Trustee and Beneficiary from any and all claims, expenses, liabilities and costs which may occur from the presence of hazardous materials being located on the Property.

9. USE OF PROPERTY. Beneficiary shall not use the Property for any illegal purpose.

10. CONDEMNATION. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or any part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary to the extent of any Indebtedness which may be due and owing under the Agreement or pursuant to this Deed of Trust, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

11. TRUSTOR NOT RELEASED: FORBEARANCE BY BENEFICIARY NOT A WAIVER. Extension of time for payment or modification of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Trustor shall not operate to release, in any manner, the liability of the original Trustor or Trustor's successor in interest. Beneficiary shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify the Indebtedness secured by this Deed of Trust by reason of any demand made by Trustor or Trustor's successor in interest. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of nor shall preclude the exercise of any such right or remedy in the future.

12. SUCCESSORS AND ASSIGNS BOUND: JOINT AND SEVERAL LIABILITY: CO-SIGNERS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Trustor. All covenants and agreements of Trustor shall be joint and several. Any Trustor who signs this Deed of Trust, but does not execute the Agreement, (a) acknowledges having read and understood the Agreement, the obligations of which are secured by this Deed of Trust, (b) is not personally liable under the Agreement, and (c) agrees that Beneficiary and any other Trustor hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Agreement; without that Trustor's consent and without releasing that Trustor or modifying this Deed of Trust as to that Trustor's interest in the Property.

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19. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; BENEFICIARY IN POSSESSION. As additional security hereunder, Trustor assigns to Beneficiary the rents generated by the Property, provided that Trustor shall, prior to an Event of Default hereunder or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

20. ARBITRATION DISCLOSURE:

(a) Any claim or controversy ("Dispute") between or among the parties and their assigns, including but not limited to Disputes arising out of or relating to this agreement, this arbitration provision ("arbitration clause"), or any related agreements or instruments relating hereto or delivered in connection herewith ("Related Documents"), and including but not limited to a Dispute based on or arising from an alleged tort, shall at the request of any party be resolved by binding arbitration in accordance with the applicable arbitration rules of the American Arbitration Association ("the Administrator"). The provisions of this arbitration clause shall survive any termination, amendment, or expiration of this agreement or Related Documents. The provisions of this arbitration clause shall supersede any prior arbitration agreement between or among the parties. If any provision of this arbitration clause should be determined to be unenforceable, all other provisions of this arbitration clause shall remain in full force and effect.

1. ARBITRATION IS FINAL AND BINDING ON THE PARTIES AND SUBJECT TO ONLY VERY LIMITED REVIEW BY A COURT.
2. IN ARBITRATION THE PARTIES ARE WAIVING THEIR RIGHT TO LITIGATE IN COURT, INCLUDING THEIR RIGHT TO A JURY TRIAL.
3. DISCOVERY IN ARBITRATION IS MORE LIMITED THAN DISCOVERY IN COURT.
4. ARBITRATORS ARE NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING IN THEIR AWARDS. THE RIGHT TO APPEAL OR SEEK MODIFICATION OF ARBITRATORS' RULINGS IS VERY LIMITED.
5. A PANEL OF ARBITRATORS MIGHT INCLUDE AN ARBITRATOR WHO IS OR WAS AFFILIATED WITH THE BANKING INDUSTRY.
6. IF YOU HAVE QUESTIONS ABOUT ARBITRATION, CONSULT YOUR ATTORNEY OR THE AMERICAN ARBITRATION ASSOCIATION.

(b) The arbitration proceedings shall be conducted in Salt Lake City, Utah, at a place to be determined by the Administrator. The Administrator and the arbitrator(s) shall have the authority to the extent practicable to take any action to require the arbitration proceeding to be completed and the arbitrator(s)' award issued within one-hundred-fifty (150) days of the filing of the Dispute with the Administrator. The arbitrator(s) shall have the authority to impose sanctions on any party that fails to comply with time periods imposed by the Administrator or the arbitrator(s), including the sanction of summarily dismissing any Dispute or defense with prejudice. The arbitrator(s) shall have the authority to resolve any Dispute regarding the terms of this agreement, this arbitration clause or Related Documents, including any claim or controversy regarding the arbitrability of any Dispute. All limitations periods applicable to any Dispute or defense, whether by statute or agreement, shall apply to any arbitration proceeding hereunder and the arbitrator(s) shall have the authority to decide whether any Dispute or defense is barred by a limitations period and, if so, to summarily enter an award dismissing any Dispute or defense on that basis. The doctrines of compulsory counterclaim, res judicata, and collateral estoppel shall apply to any arbitration proceeding hereunder so that a party must state as a counterclaim in the arbitration proceeding any claim or controversy which arises out of the transaction or occurrence that is the subject matter of the Dispute. The arbitrator(s) may in the arbitrator(s)' discretion and at the request of any party: (1) consolidate in a single arbitration proceeding any other claim or controversy involving another party that is substantially related to the Dispute where that other party is bound by an arbitration clause with the Bank, such as borrowers, guarantors, sureties, and owners of collateral; (2) consolidate in a single arbitration proceeding any other claim or controversy that is substantially similar to the Dispute; and (3) administer multiple arbitration claims or controversies as class actions in accordance with the provisions of Rule 23 of the Federal Rules of Civil Procedure.

(c) The arbitrator(s) shall be selected in accordance with the rules of the Administrator from panels maintained by the Administrator. A single arbitrator shall have expertise in the subject matter of the Dispute. Where three arbitrators conduct an arbitration proceeding, the Dispute shall be decided by a majority vote of the three arbitrators, at least one of whom must have expertise in the subject matter of the Dispute and at least one of whom must be a practicing attorney. The arbitrator(s) shall award to the prevailing party recovery of all costs and fees (including attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees). The arbitrator(s), either during the pendency of the arbitration proceeding or as part of the arbitration award, also may grant provisional or ancillary remedies including but not limited to an award of injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver.

(d) Judgment upon an arbitration award may be entered in any court having jurisdiction, subject to the following limitation: the arbitration award is binding upon the parties only if the amount does not exceed Four Million Dollars (\$4,000,000.00); if the award exceeds that limit, either party may demand the right to a court trial. Such a demand must be filed with the Administrator within thirty (30) days following the date of the arbitration award; if such a demand is not made within that time period, the amount of the arbitration award shall be binding. The computation of the total amount of an arbitration award shall include amounts awarded for attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees.

(e) No provision of this arbitration clause, nor the exercise of any rights hereunder, shall limit the right of any party to: (1) judicially or non-judicially foreclose against any real or personal property collateral or other security; (2) exercise self-help remedies, including but not limited to repossession and setoff rights; or (3) obtain from a court having jurisdiction thereover any provisional or ancillary remedies including but not limited to injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver. Such rights can be exercised at any time, before or during initiation of an arbitration proceeding, except to the extent such action is contrary to the arbitration award. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration, and any claim or controversy related to the exercise of such rights shall be a Dispute to be resolved under the provisions of this arbitration clause. Any party may initiate arbitration with the Administrator; however, if any party initiates litigation and another party disputes any allegation in that litigation, the disputing party—upon the request of the initiating party—must file a demand for arbitration with the Administrator and pay the Administrator's filing fee. The parties may serve by mail a notice of an initial motion for an order of arbitration.

(f) Notwithstanding the applicability of any other law to the Agreement, the arbitration clause, or Related Documents between or among the parties, the Federal Arbitration Act, 9 U.S.C. § 1 et seq., shall apply to the construction and interpretation of this arbitration clause.

21. **RECONVEYANCE.** Upon payment by Trustor of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all instruments evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

22. **SUBSTITUTE TRUSTEE.** Beneficiary, at Beneficiary's option, may from time to time remove Trustee and appoint a successor Trustee to any Trustee appointed hereunder. Without reconveyance of the Property, the successor Trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

23. **REQUEST FOR NOTICE.** Trustor requests that copies of the notice of default and notice of sale be sent to Trustor's address as shown above or to the last known address.

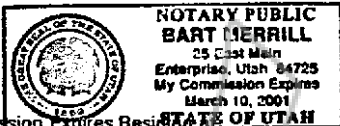
24. **TRUSTOR REPRESENTATIONS.** Trustor (i) represents that Trustor has no defenses to or setoffs against any indebtedness or other obligations owing to Lender or its affiliates (the "Obligations"), nor claims against Lender or its affiliates for any matter whatsoever, related or unrelated to the Obligations, and (ii) releases Lender and its affiliates from all claims, causes of action, and costs, in law or equity, existing as of the date of this Trust Deed, which Trustor has or may have by reason of any matter of any conceivable kind or character whatsoever, related or unrelated to the Obligations, including the subject matter of this Trust Deed. This provision shall not apply to claims for performance of express contractual obligations owing to Trustor by Lender or its affiliates.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust on the day and year first above written.

TRUSTOR: Shane R. Cheaney Melissa Cheaney
 SHANE R. CHEANEY MELISSA CHEANEY

STATE OF UTAH)
) SS.
 COUNTY OF Washington)

On this 10th day of April, 19 98, personally appeared before me Shane R. Cheaney & Melissa Cheaney, the signer(s) of the above instrument, who duly acknowledged to me that he executed the same.



Bart Merrill
 NOTARY PUBLIC

My Commission Expires Resides _____

REQUEST FOR RECONVEYANCE

To Trustee:

The undersigned is the legal owner of all indebtedness secured by this Deed of Trust. Said indebtedness has been paid in full. You are hereby directed to cancel this Deed of Trust, which is delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the persons legally entitled thereto.

Date: _____, 19 _____

COPY

NO. **110834**

FILED AND RECORDED AT REQUEST OF
ZIONS FIRST NATIONAL BANK
APRIL 13, 1998

AT 59 MINUTES PAST 1 O'CLOCK
PM IN BOOK 134 OF OFFICIAL
RECORDS PAGE 27 LINCOLN

COUNTY, NEVADA

YURIKO SETZER

BY *[Signature]* COUNTY RECORDS DEPUTY