

Submitted for Recordation By and Return to



Branch **CONSUMER LOAN SERVICING #1324**
Address **P O BOX 2240**
City **BREA, CA 92622**
State
Zip

Loan #: 20030-60323-2876998
Reference #: 010321-960511140290

SM 72154LCP

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST (Equity Maximizer® Account)

This Deed of Trust is made on March 26, 1996 by
RONALD G. GARDNER AND ANN M. GARDNER, WHO ARE MARRIED TO EACH OTHER.

(collectively and individually "Trustor"); Equitable Deed Company ("Trustee"); and the beneficiary, Bank of America Nevada, a Nevada Banking Corporation ("Lender"). Trustee is an affiliate of Lender. Any non-titleholder signs below as Trustor solely for the purpose of subjecting any community property interest in the property described below to this Deed of Trust.

Trustor and Lender hereby agree:

1. For the purpose of securing the obligations described below, Trustor irrevocably grants, conveys, transfers and assigns to Trustee, in trust with power of sale, the property located in the County of DOUGLAS, State of Nevada, described as follows:

**LOT 35, AS SHOWN ON THAT CERTAIN MAP ENTITLED ALPINE VIEW ESTATES
UNIT NO. 2, FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF DOUGLAS
COUNTY, STATE OF NEVADA, ON NOVEMBER 1, 1972, IN BOOK 1172, PAGE 76, AS
DOCUMENT NO. 62567.**

with the street address: 430 BAVARIAN DR CARSON CITY, NV 89705

and with Parcel No. 15-080-28

and including all improvements and fixtures now or later erected on the property and all easements, rights, appurtenances and fixtures now or later a part of or relating to the above described property (collectively the "Property").

2. This Deed of Trust secures:

- All obligations of the borrowers in the Equity Maximizer Agreement and Disclosure, dated 03/26/96 and naming RONALD G. GARDNER AND ANN M. GARDNER

as borrowers, for a revolving line of credit account (the "Agreement"), as well as any extensions, modifications and renewals of the Agreement. The Agreement provides for a Total Credit Commitment of \$ 64,000.00, allows for repeated credit advances drawn against the Total Credit Commitment, and provides for a variable interest rate. By mutual agreement, Lender may increase the Total Credit Commitment ("Increased Credit Commitment"); and

- Trustor's performance of each obligation in this Deed of Trust.

This Deed of Trust will not secure obligations of the borrowers in the Agreement in excess of the Total Credit Commitment or Increased Credit Commitment, except for any amounts due to: (a) unpaid interest, or (b) expenses that Lender incurs because obligations of a borrower under the Agreement are not fulfilled (including without limitation, any advances that Lender makes to perform a borrower's duties to pay taxes, insurance, etc.).

3. Insurance Trustor will keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. Trustor will maintain this insurance in the amounts and for the periods that Lender requires. Trustor is free to buy this insurance from any insurance company authorized to do business in Nevada subject to Lender's right to refuse any insurance company for reasonable cause. All such insurance policies and renewals shall be acceptable to Lender. If Trustor fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals obtained by Trustor relating to the Property, including those not required by Lender, together with all compensation, awards, damages, rights of action and proceeds derived therefrom are hereby assigned to Lender, and shall include a standard mortgage clause naming Lender as loss payee. Lender will have the right to hold the policies and renewals. If Lender requires, Trustor will promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Trustor will give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Trustor.

At the discretion of Lender, the amount collected under any insurance policy attributable to damage to the Property from any insured peril, shall be received, controlled and disbursed by Lender. Unless Trustor and Lender otherwise agree in writing, all insurance proceeds from any insurance policy obtained by Trustor, including those not required by Lender, will be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds will be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Trustor. If Trustor abandons the Property, or does not answer a notice from lender that the insurance carrier has offered to settle a claim within 30 days, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Deed of Trust, whether or not then due. The 30-day period will begin when the notice is given.

Unless Trustor and Lender otherwise agree in writing, any application of proceeds to principal will not extend or postpone the due date of the monthly payments referred to in Paragraph 1 and Paragraph 2 or change the amount of the payments. If the Property is acquired by Lender under this Deed of Trust, Trustor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition will pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

4. Property Maintenance Trustor will keep and maintain the Property in good repair. If this Deed of Trust is on a leasehold, Trustor will comply with the terms of any lease. If this Deed of Trust is on a unit in a condominium or planned unit development ("PUD"), Trustor will perform all of Trustor's obligations under the Covenants, Conditions and Restrictions (the "Declaration"), Articles of Incorporation, Trust Instrument or any equivalent documents which create the homeowner's association or equivalent entity owning or managing the common areas and facilities of the condominium or PUD (the "Owners Association") and any bylaws or other rules or regulations of the Owners Association. Trustor will promptly pay, when due, all dues and assessments imposed by the Owners Association. In the event of a distribution of hazard insurance proceeds, in lieu of restoration or repair following a loss to the Property or to common areas and facilities of the condominium or PUD, any proceeds payable to Trustor are hereby assigned and shall be paid to Lender and Lender, at its option may apply such proceeds to restoration or repair of the property or to sums secured by this Deed of Trust. Trustor will take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount and extent of coverage to Lender. Trustor will not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the condominium or PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the Declaration or other documents creating or governing the Owners Association if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

5. Environmental Responsibilities To Trustor's knowledge, there has been no disposal, discharge, deposit, injection, dumping, leaking, spilling, placing or escape of any toxic or hazardous substance, waste, pollutant or contaminant (as those items are defined or described under Federal and state laws) on, in, under, or from any of Property and there is or will be no facility in, or on any such Property which is to be used for the treatment, storage or disposal of any toxic or hazardous substance, waste, pollutant or contaminant (as those items are defined or described in Federal and state laws). Trustor shall indemnify and save and hold harmless Lender and its successors and assigns from and against all claims, liabilities, proceedings, suits, losses, damages (including without limitation punitive damages), judgments and environmental response and clean-up costs, fines, penalties and expenses (including without limitation reasonable attorneys' fees, costs and expenses incurred in investigating and defending against the assertion of any such liabilities, regardless of their merit), which may be asserted against, sustained, suffered or incurred by Lender or its successors and assigns because of the existence of any such toxic or hazardous substance, waste, pollutant or contaminate. This indemnity shall include, without limitation, claims asserted by any Federal or state governmental agency or any private party and shall continue in effect following any foreclosure, release and reconveyance of this Deed of Trust or other realization upon the security of Lender or its successors and assigns.

6. Prior Liens Trustor will perform all of Trustor's obligations under any mortgage, deed of trust, or other security instrument which creates a lien having priority over the lien of this Deed of Trust. Borrower will pay all taxes, assessments, and charges resulting from any lien having priority over this Deed of Trust.

7. Protection of Lender's Security Interest If Trustor fails to perform Trustor's obligations under this Deed of Trust, or if any action or proceeding adversely affects Lender's interest in the Property, Lender may, at Lender's option, take any action reasonably necessary (including, without limitation, paying expenses and attorney fees) to perform Trustor's obligations or to protect Lender's interest.

Any sums that Lender pays in accordance with this Paragraph 7 will be additional indebtedness secured by this Deed of Trust. These payments will be subject to finance charge in accordance with the variable rate terms of the Agreement and will be due and payable by Trustor immediately upon Lender's demand.

8. Inspection Lender may enter and inspect the Property, after giving Trustor reasonable prior notice.

9. Condemnation Trustor assigns to Lender the proceeds of any award or claim for damages arising from any condemnation or other taking of all or part of the Property, (and if the Property is a unit in a condominium or PUD, the common areas and facilities, or any part thereof), or for any conveyance instead of condemnation. The proceeds will be paid to Lender.

10. Not Released From Liability; Forbearance By Lender Not a Waiver Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to Trustor, any borrower under the Agreement or any successor in interest shall not operate to release from liability Trustor, any borrower under the Agreement or any successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by Trustor and Trustor's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

11. **Successors In Interest; Joint and Individual Liability; Co-Signers** This Deed of Trust will bind and benefit the successors in interest of Lender and Trustor, subject to Paragraph 13 below. If more than one Trustor is signing this Deed of Trust, Trustor's obligations will be joint and individual. Any Trustor who is not a borrower in the Agreement is: (a) signing this Deed of Trust only to grant and convey that Trustor's interest in the Property to Trustee according to this Deed of Trust, (b) not personally liable for obligations in the Agreement, and (c) agreeing that Lender and a Trustor who is a borrower in the Agreement may extend, modify, forbear, or make any other agreements relating to this Deed of Trust without that Trustor's consent, and without releasing that Trustor from this Deed of Trust or any extension or modification of this Deed of Trust.

12. **Beneficiary Statement; Payoff Demand Statement** Lender may collect a fee not to exceed the maximum amount permitted by law for furnishing a beneficiary statement, payoff demand statement, or any similar statement as provided by Nevada Revised Statutes.

13. **Reconveyance of Deed of Trust** Trustor and Trustor's successors in interest will not be released from Trustor's liability under this Deed of Trust until Trustee, acting with Lender's authority, executes and records a deed of reconveyance that releases Trustor and Trustor's successors in interest from the obligations under this Deed of Trust.

14. **Property Transfer; Due-On-Sale Clause** If Trustor sells or transfers all or part of the Property or any interest in the Property (or if Trustor's beneficial interest in the Property is altered in any way) without Lender's prior written consent, Lender may, at Lender's option, declare all sums secured by this Deed of Trust to be immediately due and payable.

15. **Default** The occurrence of any of the following will be deemed to be an event of default: (a) Trustor engages in fraud or material misrepresentation in connection with the Agreement or the account established pursuant to the Agreement; (b) Trustor does not meet Trustor's repayment obligations in the Agreement; or (c) Trustor acts or fails to act in a way that adversely affects the Property or any of Lender's rights in the Property, including, but not limited to, the sale or transfer of the Property without Lender's prior written consent, unless prohibited by law. If Trustor commits an event of default, at Lender's option, Lender may require immediate payment in full of all sums secured by this Deed of Trust without demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorneys' fees (including allocated cost of Lender's salaried attorneys, to the extent permitted by law).

16. **Assignment of Rents** (a) Trustor unconditionally assigns to Lender all rents and proceeds of the Property, including all prepaid rents and security deposits ("Rents") and confers upon Lender the right to collect such Rents with or without taking possession of the Property. This is an absolute assignment, not an assignment for security only. (b) Notwithstanding the above assignment of Rents, the Lender grants Trustor a license to collect such Rents until Lender invokes any right under Paragraph 14 above.

17. **Substitution of Trustee** At Lender's option, Lender may from time to time appoint a substitute trustee to replace Trustee by executing an instrument and recording it with the Recorder in the county stated above. This provision will supersede any other provision for trustee substitution.

18. **Request for Notices** Lender requests that copies of notice of foreclosure from the holder of any lien which has priority over this Deed of Trust be sent to Lender's address, as set forth on page one of this Deed of Trust, as provided by Nevada Revised Statutes.

19. **Riders of this Deed of Trust** If one or more riders are executed by you and recorded together with this Deed of Trust, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Deed of Trust as if the rider(s) were a part of this Deed of Trust.

[Check applicable box(es)]

Unaffixed Mobilehome/Manufactured Home Rider

Mobilehome/Manufactured Home Fixture Rider

Other(s) [specify]

20. **Notices** If a mailing address appears below for any Trustor, Lender's notices to that Trustor will be mailed to the address shown. Otherwise, notices will be sent to Trustor at the Property address shown on the first page of this Deed of Trust.

21. **Leasehold** If this Deed of Trust is on a leasehold: Trustor shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease creating said estate and interest, and Trustor shall not, without the express written consent of Lender, alter or amend said ground lease. Trustor covenants and agrees that there shall not be a merger of the ground lease, or the leasehold estate created thereby, with the fee estate covered by the ground lease by reason of said leasehold estate or said fee estate, or any part of either, coming into common ownership, unless Lender shall consent in writing to such merger; if Trustor shall acquire such fee estate, then this Deed of Trust shall simultaneously and without further action be spread so as to become a lien on such fee estate.

22. **Governing Law; Enforceability** The terms of this Deed of Trust will be governed by Nevada law. Lender's failure to exercise any right or remedy under this Deed of Trust will not waive Lender's rights in the future. If any term of this Deed of Trust is found to be unenforceable, all other provisions will remain in full force.

MAILING ADDRESS FOR NOTICES

Street

City and State

430 BAVARIAN DR

CARSON CITY, NV 89705

Signature

RONALD G. GARDNER

ANN M. GARDNER

GENERAL ACKNOWLEDGEMENT

State of Nevada

County of Douglas

} SS.

On March 29, 1996 before me, L. Layton, personally appeared Ronald G. Gardner and Ann M. Gardner

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

(SEAL)



L. LAYTON

Notary Public - State of Nevada
Appointment Recorded in Douglas County
MY APPOINTMENT EXPIRES JUNE 30, 1999

GENERAL ACKNOWLEDGEMENT

State of Nevada

County of Douglas

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On March 29, 1996 before me, L. Layton, personally appeared Ronald G. Gardner and Ann M. Gardner

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WITNESS my hand and official seal.

Signature

(SEAL)



L. LAYTON

Notary Public - State of Nevada
Appointment Recorded in Douglas County
MY APPOINTMENT EXPIRES JUNE 30, 1999

REQUESTED BY
WESTERN TITLE COMPANY, INC.
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

'96 APR -1 P12:02

LINDA SLATER
RECORDER

PAID KJ DEPUTY