

016561661 LCP

APN. 1420-D8-210-022

When recorded return to:

First Tennessee Bank National Association  
1755 LYNNFIELD, BUILDING D-2ND FLOOR  
MEMPHIS, TENNESSEE 38119  
POST CLOSING MAILROOM COST CENTER 7206  
Loan No. 1234628

**RECORD AND RETURN TO:**  
FIDELITY NATIONAL TITLE  
NATIONAL LENDERS DIVISION  
2500 McCLELLAN AVE., SUITE 120  
PENNSAUKEN, NJ 08109

**NEVADA**  
**OPEN-END DEED OF TRUST**  
**AND FIXTURE FILING**

**FUTURE ADVANCES:** This deed of trust secures future advances. We and you, as these terms are defined below, have agreed that we may make advances and readvances secured by this Deed of Trust from time to time at your request. The maximum amount of advances of principal to be served by this deed of trust may increase or decrease from time to time by amendment of the Deed of Trust. The maximum amount of principal indebtedness secured by this Deed of Trust is **THIRTY-SIX THOUSAND AND 00/100ths** Dollars (\$ **36,000.00** ).

**RIGHTS AND OBLIGATIONS OF THE BORROWER:** Pursuant to this Deed of Trust and the Home Equity Line of Credit Agreement and Disclosures under the Federal Truth-in-Lending Act dated the same date as this Deed of Trust and secured by it (the "Agreement"), you have a right to obtain advances from time to time to be secured by the Property described below. This right to obtain advances may be terminated as described in the Agreement. You have certain duties under the Agreement and this Deed of Trust, which include, without limitation, the obligation to make timely monthly payments, to perform all of your obligations under any lien that has priority over this Deed of Trust, to keep the Property insured and free of subsequent liens that may obtain priority over this Deed of Trust, to preserve and maintain the Property, and not to transfer the Property or an interest in it without our prior written consent.

**CONSEQUENCES OF DEFAULT:** If you default as defined in the Agreement, we will have certain rights as set forth in this Deed of Trust to protect the amounts due under the Agreement and this Deed of Trust. If such amounts are not paid, we may foreclose this Deed of Trust and sell the Property. In addition, if you fail to perform any other obligation under this Deed of Trust or the Agreement, we may (i) suspend your right to obtain further cash advances under the Agreement or (ii) reduce your credit limit.

**THIS DEED OF TRUST** is made on this **20TH** day of **JUNE**, 2001 (the "Effective Date").

The grantor is **KIMBERLY GERMAIN and JEFFREY GERMAIN MARRIED**

("Grantor"),

whose address is: **1000 SUNBURST DRIVE, CARSON CITY, NEVADA 89705**

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The trustee is **TERRY RENOUX**

(“Trustee”),

whose address is: **300 COURT AVENUE, MEMPHIS, TN 38103**

The beneficiary is **FIRST TENNESSEE BANK NATIONAL ASSOCIATION**

with its principal place of business at

**300 COURT AVENUE, MEMPHIS, TN 38103**

(“Lender”).

If more than one Trustee is named, any Trustee acting alone has the rights and authority conferred upon the Trustee in this Deed of Trust.

In this Deed of Trust, the terms “you,” “your” and “yours” refer to the grantor(s). The terms “we”, “us” and “our” refer to the Lender and its successors and assigns.

Pursuant to the Agreement, you may incur indebtedness in amounts fluctuating from time to time up to the maximum aggregate principal amount of **THIRTY-SIX THOUSAND AND 00/100ths** Dollars (U.S. \$ **36,000.00** ).

The Agreement provides for the full debt to be paid by you in full no later than **JUNE 25, 2021** (the “Maturity Date”). You agree that this Deed of Trust shall continue to secure all sums now or hereafter advanced under the terms of the Agreement including, without limitation, such sums that are advanced to you whether or not at the time the sums are advanced there is any principal sum outstanding under the Agreement.

This Deed of Trust secures to us: (a) the repayment of the debt evidenced by the Agreement, with interest, and all refinancings, renewals, extensions and modifications of the Agreement; (b) the payment of all other sums, with interest, advanced under Section 7 of this Deed of Trust to protect the security of this Deed of Trust; and (c) the performance of your covenants and agreements under this Deed of Trust and the Agreement. For this purpose and in consideration of the debt, you irrevocably grant and convey to the Trustee, in trust, with power of sale, the property located at , **DOUGLAS** County, Nevada, which property is more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

**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. All replacements and additions shall also be covered by this Deed of Trust. All of the foregoing is referred to in this Deed of Trust as the “Property.”

**YOU COVENANT** that you are lawfully seised of the estate hereby conveyed and have the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. You warrant and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

**YOU AND WE** covenant and agree as follows:

1. **Payment of Principal, Interest and Other Charges.** You promise to and will pay when due the principal and interest owing under the Agreement and all other charges due under the Agreement.
2. **Payments of Taxes and Insurance.** You promise to and will pay, when due, all taxes, assessments, leasehold payments or ground rents (if any), and hazard insurance on the Property and mortgage insurance (if any).
3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by us under the Agreement and Section 1 will be applied by us first to interest and other charges payable under the Agreement and then to the remaining principal balance under the Agreement.
4. **Prior Deeds of Trust; Charges; Liens.** You shall perform all of your obligations under any mortgage, deed of trust or other security instruments with a lien which has priority over this Deed of Trust, including your covenants to make payments when due. You shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust or any advance under this Deed of Trust, and leasehold payments or ground rents, if any. Upon our request, you shall promptly furnish to us all notices of amounts to be paid under this Section and receipts evidencing any such payments you make directly.

You shall promptly discharge any lien (other than a lien disclosed to us in your application or in any title report we obtained) which has priority over this Deed of Trust or any advance to be made under the Agreement or this Deed of Trust.

5. **Hazard Insurance.** You shall keep the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which we require insurance. This insurance shall be maintained in the amounts and for the periods that we require. You may choose the insurer.

Insurance policies and renewals shall be acceptable to us and shall include a standard mortgagee clause. If we require, you shall promptly give us all receipts of paid premiums and renewal notices. You shall promptly notify the insurer and us of any loss. We may make proof of loss if you do not promptly do so.

Insurance proceeds shall be applied to restore or repair the Property damaged, if restoration or repair is economically feasible and our security would not be lessened. Otherwise, insurance proceeds shall be applied to sums secured by this Deed of Trust, whether or not then due, with any excess paid to you. If you abandon the Property, or do not answer within

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30 days our notice to you that the insurer has offered to settle a claim, then we may collect and 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 on the date when notice is given.

Any application of proceeds to principal shall not require us to extend or postpone the due date of monthly payments. If we acquire the Property at a forced sale following your default, your right to any insurance proceeds resulting from damage to the property prior to the acquisition shall pass to us to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

6. **Preservation and Maintenance of Property; Leaseholds.** You shall not destroy, damage or substantially change the Property, allow the Property to deteriorate, or commit waste. If this Deed of Trust is on a leasehold, you shall comply with the lease. If you acquire fee title to the Property, the leasehold and fee title shall not merge unless we agree to the merger in writing.
7. **Protection of Our Rights in the Property; Mortgage Insurance.** If you fail to perform the covenants and agreements contained in this Deed of Trust, or there is a legal proceeding that may significantly affect our rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce the laws or regulations), then we may do, and pay for, anything necessary to protect the Property's value and our rights in the Property. Our actions may include, without limitation, paying any sums secured by a lien which has priority over this Deed of Trust or any advance under the Agreement or this Deed of Trust, appearing in court, paying reasonable attorney's fees, paying any sums which you are required to pay under this Deed of Trust and entering the Property to make repairs. We do not have to take any action we are permitted to take under this Section. Any amounts we pay under this Section shall become additional debts you owe us and shall be secured by this Deed of Trust. These amounts shall bear interest from the disbursement date at the rate established under the Agreement and shall be payable, with interest, upon our request.

If we require mortgage insurance as a condition of making the loan secured by this Deed of Trust, you shall pay the premiums for such insurance until such time as the requirement for the insurance terminates.

8. **Inspection.** We may inspect the Property at any reasonable time after providing you with reasonable notice. Notice will be deemed to be reasonable if it is provided at least twenty-four (24) hours in advance.
9. **Condemnation.** The proceeds of any award for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to us.

10. **You Are Not Released; Forbearance by Us Not a Waiver.** Extension of time for payment or modification of amortization of the sums secured by this Deed of Trust granted by us to any of your successors in interest shall not operate to release your liability or the liability of your successors in interest. We shall not be required to commence proceedings against any successor in interest, 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 you or your successors in interest. Our forbearance in exercising any right or remedy shall not waive or preclude the exercise of any right or remedy.
11. **Successors and Assigns Bound; Joint and Several Liability; Co-Signers.** The covenants and agreements of this Deed of Trust shall bind and benefit your successors and permitted assigns. Your covenants and agreements shall be joint and several. Anyone who co-signs this Deed of Trust but does not execute the Agreement: (a) is co-signing this Deed of Trust only to mortgage, grant and convey such person's interest in the Property; (b) is not personally obligated under the Agreement, but is obligated to pay all other sums secured by this Deed of Trust; and (c) agrees that we and anyone else who signs this Deed of Trust may agree to extend, modify, forbear or make any accommodations regarding the terms of this Deed of Trust or the Agreement without such person's consent.
12. **Loan Charges.** If the loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from you which exceed permitted limits will be refunded to you. We may choose to make this refund by reducing the principal owed under the Agreement or by making a direct payment to you. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Agreement.
13. **Notices.** Unless otherwise required by law, any notice to you provided for in this Deed of Trust shall be delivered or mailed by first class mail to the Property Address or any other address you designate by written notice to us.
14. **Governing Law; Severability.** This Deed of Trust shall be governed by federal law and, except as preempted by federal law, by the law of jurisdiction in which the Property is located. In the event that any provision or clause of this Deed of Trust or the Agreement conflicts with applicable law, such conflict shall not affect other provisions of the Deed of Trust or the Agreement which can be given effect without the conflicting provision. To this end the provisions of this Deed of Trust and the Agreement are declared to be severable.
15. **Transfer of the Property.** If all or any part of the Property or any interest in it is sold or transferred without our prior written consent, we may, at our option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by us if exercise is prohibited by federal law as of the date of this Deed of Trust.

16. **Sale of Agreement; Change of Loan Servicer.** The Agreement or a partial interest in the Agreement (together with this Deed of Trust) may be sold one or more times without prior notice to you. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Agreement and this Deed of Trust. There also may be one or more changes of the Loan Servicer unrelated to the sale of the Agreement. If there is a change of the Loan Servicer, you will be given written notice of the change as required by applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any information required by applicable law.
17. **Hazardous Substances.** You shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. You shall not do, nor 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 Hazardous Substances in quantities that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

You shall promptly give us written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which you have actual knowledge. If you learn or are notified by any government or regulatory authority, that any removal or other remediation of any Hazardous Substance is affecting the Property is necessary, you shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this Deed of Trust, "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 and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Deed of Trust, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

18. **Default; Acceleration; Remedies.**

You will be in default if: (i) any payment required by the Agreement is not made when it is due; (ii) we discover that you have committed fraud or made a material misrepresentation; (iii) you take any action or fail to take any action that adversely affects our security for the Agreement or any right we have in the Property; or (iv) any event occurs that permits us to accelerate the amounts due under the Agreement.

If you are in default, we may do one or more of the following: (i) terminate the Agreement and demand immediate payment in full of the entire balance owing under the Agreement and this Deed of Trust in a single lump sum payment, (ii) sell the Property, in accordance with

the terms of this Deed of Trust and applicable law, without bringing suit to foreclose on the Property, (iii) bring a lawsuit to foreclose upon and sell the Property, or (iv) pursue any other remedies permitted by applicable law. We are entitled to recover all fees, costs, and expenses incurred in pursuing any of the remedies provided in this Section 18, including, without limitation, reasonable attorney's fees.

If we invoke our power to sell the Property, we will first record or cause the Trustee to record a notice of default and intention to sell the Property (the "Notice") with the office of the County Recorder in the county in which the Property is located. We will also send a copy of the Notice by certified mail to you, to any guarantor of the Agreement, and to any person who has recorded a request for a copy of the Notice. The Notice will specify the default that has occurred, will indicate that we intend to exercise our power of sale, and will state that you have the right to cure the default and reinstate your obligations under the Agreement and this Deed of Trust by paying the amount of the default within thirty-five (35) days of the date the notice is recorded (the "Cure Period"). If you do not cure the default and reinstate your obligations within the Cure Period, we will cause the trustee to serve you with a notice of sale in the manner prescribed by applicable law. The Trustee will then give notice of sale as required by public advertisement or otherwise for the time and in the manner prescribed by applicable law. The Trustee, without demand on you, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order the Trustee determines. The Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. We or our designee may purchase the Property at any sale. We may also seek a deficiency judgment within six months of the date of the sale.

The Trustee shall deliver to the purchaser the Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. The Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, Trustee's fees of 5% of the gross sale price plus the amount of any liens superior and reasonable attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it.

19. **Acceleration on Sale or Transfer.** If all or any part of the Property or any interest therein is voluntarily or involuntarily, directly or indirectly, sold, granted, conveyed, leased, mortgaged, agreed to be conveyed by land contract or otherwise transferred by you (hereinafter collectively referred to as a "Transfer") without our prior written consent, excluding (i) transfers to the spouse, children or relatives of you incident to your death, divorce, or the operation of law, (ii) transfers to an intervivos trust where the borrower remains the beneficiary, or (iii) the creation of a leasehold interest of three (3) years or less which does not include an option to purchase, then we, may, at our option, declare all sums secured by this Deed of Trust to be immediately due and payable. Any Transfer, even with the consent of us, shall not operate to release you from your obligations under this Deed of

Trust or the Agreement. If we exercise such option to accelerate, then we will mail you notice of acceleration at the address stated in the fourth paragraph of this Deed of Trust. Such notice shall provide for a period of not less than thirty (30) days from the date the notice is mailed within which you may pay the sums declared due. If you fail to pay such sums prior to the expiration of such period, we may, without further notice or demand on you, invoke any remedy permitted by Section 18 of this Deed of Trust.

- 20. **Release.** Upon your request and payment of all sums secured by this Deed of Trust, either the Trustee or we shall release this Deed of Trust without charge to you and mark the agreement "paid" and return the Agreement to you. You shall pay any recordation costs.
- 21. **Substitute Trustee.** We, at our option, may from time to time remove the Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the city or county in which this Deed of Trust is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee in this Deed of Trust and by applicable law.
- 22. **Possession of the Property.** You shall have possession of the Property until we have given you notice of default pursuant to Section 18 of this Deed of Trust.
- 23. **Waiver of Homestead Rights.** To the extent permitted by applicable law, you agree to waive any homestead rights afforded to you by Nevada Rev. Stat. §§115.010 et seq.
- 24. **Riders to 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 part of this Deed of Trust.

Adjustable Rate Rider     Graduated Payment Rider     Condominium Rider  
 1-4 Family Rider         Planned Unit Development Rider  
 Other(s) (specify)



BY SIGNING BELOW, you accept and agree to the terms and covenants contained in this Deed of Trust and any rider(s) executed by you and recorded with it.

Kim G

Printed: KIMBERLY GERMAIN

Jeffrey Germain

Printed: JEFFREY GERMAIN

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

STATE OF NEVADA )  
COUNTY OF Douglas )

On June 20, 2001, personally appeared before me, a notary public,  
Kimberly and Jeffrey Germain

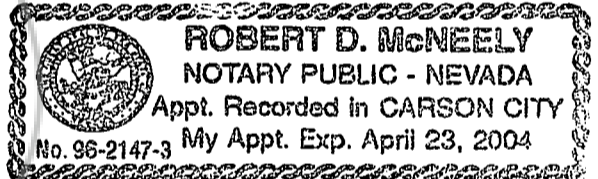
who acknowledged that they executed the above instrument.

Robert D. McNeely  
(Notary Public)

Printed: ROBERT D. McNEELY

My commission expires:

April 23, 2004



**SCHEDULE A**  
**LEGAL DESCRIPTION**

File # 212691

**ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN THE COUNTY OF DOUGLAS, STATE OF NEVADA, DESCRIBED AS FOLLOWS:**

**LOT 26, IN BLOCK D, AS SET FORTH ON THE FINAL MAP OF SUNRIDGE HEIGHTS, PHASE 3, A PLANNED UNIT DEVELOPMENT, FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF DOUGLAS COUNTY, STATE OF NEVADA, ON JUNE 1, 1994, BOOK 694, PAGE 1, AS DOCUMENT NO. 338607**

APN 1420-08-210-022

COPY

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**RIDER TO DEED OF TRUST**

Loan No. 1234628

Date: JUNE 20, 2001

The escrow of taxes and insurance required in paragraph 2 of your DEED OF TRUST to First Tennessee Bank National Association, is hereby waived and you are notified that you are not required to deposit with First Tennessee Bank National Association, any of the amounts set forth in said paragraph. This waiver does not, in any way, release you from your obligation to make escrow payments of taxes and insurance to the holder of any prior mortgage, nor does it relieve you of your obligation to keep taxes and insurance premiums current with respect to the mortgaged property.

All payments will be applied first to the accrued interest and next to the unpaid principal of your loan. The exact amount of your final payment, finance charge, and total of payments will be somewhat more or less than the amounts shown if we do not receive each payment on the scheduled payment date.

RECEIPT ACKNOWLEDGED:

*Kim G*  
KIMBERLY GERMAIN

6/20/01  
DATE

*Jeffrey Germain*  
JEFFREY GERMAIN

6/20/01  
DATE

\_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_

\_\_\_\_\_  
DATE

40109 (8/96)  
2ND RIDER Rev. 5/01

REQUESTED BY  
STEWART TITLE of DOUGLAS COUNTY

IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2001 JUL -2 AM 10:40

LINDA SLATER  
RECORDER

\$17<sup>00</sup> PAID *KZ* DEPUTY

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