

APN: 1320-33-413-014

DOC # 0635460
01/28/2005 11:03 AM Deputy: KLJ
OFFICIAL RECORD
Requested By:
STEWART TITLE

Douglas County - NV
Werner Christen - Recorder

Page: 1 of 8 Fee: 21.00
BK-0105 PG- 9902 RPTT: 0.00

When Recorded Return To:

FHHLIC - POST CLOSING MAIL ROOM

1555 W. WALNUT HILL LN. #200 MC 6712
IRVING, TX 75038

Assessor's Parcel No.: _____

040703702



NEVADA
HOME EQUITY LINE OF CREDIT DEED OF TRUST
(Securing Future Advances)

0052351855

THIS DEED OF TRUST is made on January 20th, 2005. The grantor is **JAMES ALLEN KASHUBA & JENNIFER LYN KASHUBA, Husband & Wife**

The trustee is **Fidelity National Title Company** ("Trustee").

The Grantee (beneficiary) is **FIRST HORIZON HOME LOAN CORPORATION**

whose address is **4000 Horizon Way, Irving, Texas 75063**

In this Deed of Trust, the terms "you," "your" and "yours" refer to the grantor(s). The terms "we," "us" and "our" refer to **FIRST HORIZON HOME LOAN CORPORATION**

THIS DEED OF TRUST IS SECOND AND SUBORDINATE TO A FIRST DEED OF TRUST RECORDING CONCURRENTLY HEREWITH.

Pursuant to a Home Equity Line of Credit Agreement dated the same date as this Deed of Trust ("Agreement"), you may incur maximum unpaid loan indebtedness (exclusive of interest thereon) in amounts fluctuating from time to time up to the **MAXIMUM PRINCIPAL AMOUNT** outstanding at any time of **FIFTY ONE THOUSAND SEVEN HUNDRED & 00/100** Dollars (U.S.\$ **51,700.00**).

This Deed of Trust is governed by the provisions of Nev. Rev. Stat. §§ 106.300 - 106.400. The Agreement provides for a final scheduled installment due and payable not later than on **FEBRUARY 1, 2025**. 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 by us whether or not at the time the sums are advanced there is any principal sum outstanding under the Agreement. The parties hereto intend that this Deed of Trust shall secure unpaid balances, and all other amounts due to us hereunder and 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 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 in **Douglas** County, Nevada and more fully described as follows:

LOT 25 IN BLOCK B, AS SET FORTH ON FINAL SUBDIVISION MAP FSM #1006-3 OF CHICHESTER ESTATES, PHASE 3, FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF DOUGLAS COUNTY, STATE OF NEVADA, ON SEPTEMBER 11, 1997 IN BOOK 997 AT PAGE 2121 AS DOCUMENT NO. 421409, OFFICIAL RECORDS.

which property is more commonly known as **1457 EDLESBOROUGH CIRCLE** (street),
GARDNERVILLE (city), Nevada (state) **89410** (zip code)("Property Address").

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, 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 seized of the estate hereby conveyed and have the right to mortgage, 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 shall pay when the principal of and interest owing under the Agreement and all other charges due hereunder and due under the Agreement.
2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by us under the Agreement and Section 1 shall be applied by us as provided in the Agreement.
3. **Prior Mortgages; 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, 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 paragraph 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.

We specifically reserve to ourselves and our successors and assigns the unilateral right to require, upon notice, that you pay to us on the day monthly payments are due an amount equal to one-twelfth (1/12) of the yearly taxes, and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Deed of Trust and ground rents on the Property, if any, plus one-twelfth (1/12) of yearly premium installments for hazard and mortgage insurance, all as we reasonably estimate initially and from time to

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time, as allowed by and in accordance with applicable law.

4. 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 amount and for the periods we require. You may choose any insurer reasonably acceptable to us. 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. If you fail to maintain coverage as required in this section, you authorize us to obtain such coverage as we in our sole discretion determine appropriate to protect our interest in the Property in accordance with the provisions in Section 6. You understand and agree that any coverage we purchase may cover only our interest in the Property and may not cover your interest in the Property or any personal property therein. You also understand and agree that the premium for any such insurance may be higher than the premium you would pay for such insurance. You shall promptly notify the insurer and us of any loss. We may make proof of loss if you do not promptly do so.

We may also, at our option and on your behalf, adjust and compromise any claims under the insurance, give releases or acquittances to the insurance company in connection with the settlement of any claim and collect and receive insurance proceeds. You appoint us as your attorney-in-fact to do all the foregoing, which appointment you understand and agree is irrevocable, coupled with an interest with full power of substitution and shall not be affected by your subsequent disability or incompetence.

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 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 when notice is given. Any application of proceeds to principal shall not require us to extend or postpone the due date of monthly payments or change the amount 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.

You shall not permit any condition to exist on the Property which would, in any way, invalidate the insurance coverage on the Property.

5. Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. You shall not destroy, damage or substantially change the Property, allow the Property to deteriorate, or commit waste. You shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in our good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust or our security interest. You may cure such a default, as provided in Section 17, by causing the action or proceeding to be dismissed with a ruling that, in our good faith determination, precludes forfeiture of your interest in the Property or other material impairment of the lien created by this Deed of Trust or our security interest. You shall also be in default if you, during the loan application process, gave materially false or inaccurate information or statements to us (or failed to provide us with any material information) in connection with the loan evidenced by the Agreement, including, but not limited to, representations concerning your occupancy of the Property as a principle residence. 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.

6. 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

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enforce 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 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 on the Property to make repairs. We do not have to take any action we are permitted to take under this paragraph. Any amounts we pay under this paragraph 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 required 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.

7. Inspection. We may enter and inspect the Property at any reasonable time and upon reasonable notice.

8. Condemnation. To the extent permitted by law, 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. If the Property is abandoned, or if, after notice by us to you that the condemnor offers to make an award or settle a claim for damages, you fail to respond to us within 30 days after the date the notice is given, we are authorized to collect and apply the proceeds, at our option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due. Unless we and you otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments payable under the Agreement and Section 1 or change the amount of such payments.

9. 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.

10. 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 to pay 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.

11. 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.

12. 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 notice to us. Unless otherwise required by law, any notice to us shall be given by first class mail to our address

stated above or any other address we designate by notice to you. Any notice provided for in this Deed of Trust shall be deemed to have been given to you or us when given as provided in this paragraph.

13. Governing Law; Severability. The extension of credit secured by this Deed of Trust is governed by the law of the state where you reside, except as preempted by federal law. However, the interpretation and enforcement of this Deed of Trust shall be governed by the law of the jurisdiction in which the Property is located, except as preempted by federal law. 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 this 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.

14. 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 and to the extent permitted by law, 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.

15. 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.

16. 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 Hazard 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 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.

17. Acceleration; Remedies. You will be in default if (1) any payment required by the Agreement or this Deed of Trust is not made when it is due; (2) we discover that you have committed fraud or made a material misrepresentation in connection with the Agreement; or (3) 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. If a default occurs (other than under Section 14 hereof unless applicable law provides otherwise), we will give you notice specifying: (a) the default; (b) the action required to cure the default; (c) a date not less than 35 days from the date the notice is given to you and recorded in the appropriate county office, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform you of any right to reinstate after acceleration and the right to assert in the foreclosure

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proceeding the non-existence of a default or any other defense you have to acceleration and sale. If the default is not cured on or before the date specified in the notice, we at our option may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. We shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 17, including but not limited to, reasonable attorneys' fees as permitted by applicable law, but not to exceed 20% of the amount you owe for principal and interest and costs of title evidence.

If we invoke the power of sale, we shall mail or cause the Trustee to mail a notice of sale to you in the manner prescribed by applicable law. The Trustee shall give notice of sale by public advertisement 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.

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, in accordance with NRS Section 40.462(2), 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 and reasonable attorney's fees (as set forth above); (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitle to it.

18. Discontinuance of Enforcement. Notwithstanding our acceleration of the sums secured by this Deed of Trust under the provisions of Section 17, we may, in our sole discretion and upon such conditions as we in our sole discretion determine, discontinue any proceedings begun to enforce the terms of this Deed of Trust.

19. Reconveyance. Upon your request and payment of all sums secured by this Deed of Trust, we shall release this Deed of Trust. To the extent permitted by law, you will be responsible for all costs of recording such release.

20. Additional Charges. You agree to pay reasonable charges as allowed by law in connection with the servicing of this loan including, without limitation, the costs of obtaining tax searches and subordinations. Provided, however, that nothing contained in this section is intended to create and shall not be construed to create any duty or obligation by us to perform any such act, or to execute or consent to any such transaction or matter, except a release of the Deed of Trust upon full repayment of all sums secured thereby.

21. Waiver. No waiver by us at any time of any term, provision or covenant contained in this Deed of Trust or in the note secured hereby shall be deemed to be or construed as a waiver of any other term, provision or covenant or the same term, provision or covenant at any other time.

22. 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.

23. Assumption Fee. If we permit an assumption of the loan secured by this Deed of Trust, we may charge an assumption fee of N/A Dollars(\$ N/A).

24. Statutory Covenants Incorporated by Reference. Where not inconsistent with the above provisions of this Deed of Trust, the following covenants, Nos.1; 2(full replacement value); 3; 4(20% per annum); 5; 6; 7(a reasonable percentage); 8 and 9 of NRS Section 107.030 are hereby adopted and made part of

this Deed of Trust.

25. 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.

- Condominium Rider
- 1-4 Family Rider
- Planned Unit Development Rider
- Other(s) (specify) HELOC


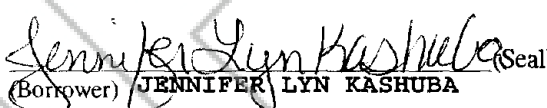
26. Waiver of Homestead Rights. To the extent permitted by applicable law, you agree to waive any homestead rights afforded to you by Nevada Rev. Stat. §§ 115.010 et. seq.

**REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE
UNDER SUPERIOR MORTGAGES OR DEED OF TRUST**

I(We) and Lender request the holder of any mortgage, deed of trust, or other encumbrance with a lien which has priority over this Security Instrument to give notice to Lender, at Lender's address set forth on page one of this Security Instrument, of any default under the superior encumbrance and of any sale or other foreclosure action.

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

BOTH SPOUSES MUST SIGN

 (Seal)  (Seal)
 (Borrower) JAMES ALLEN KASHUBA (Borrower) JENNIFER LYN KASHUBA
 _____ (Seal) _____ (Seal)
 (Borrower) (Borrower)

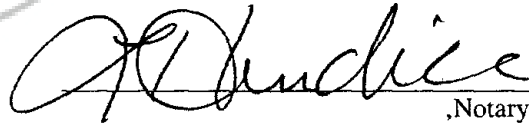
STATE OF NEVADA
COUNTY OF DOUGLAS

On 1-24, 2005 personally appeared before me, a notary public,

JAMES ALLEN KASHUBA and JENNIFER LYN KASHUBA,

and _____
who acknowledged that he/she/they executed the above instrument.




_____, Notary Public

My Commission expires: 4-29-05

Mail Tax Statement To: **JAMES ALLEN KASHUBA**
1457 EDLESBOROUGH CIRCLE
GARDNERVILLE, Nevada 89410

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RIDER TO THE DEED OF TRUST / MORTGAGE / SECURITY DEED

0052351855

Date: 1/20/2005

The escrow of taxes and insurance required in of your DEED OF TRUST/MORTGAGE/SECURITY DEED to **FIRST HORIZON HOME LOAN CORPORATION**, a **KANSAS** corporation is hereby waived and you are notified that you are not required to deposit with **FIRST HORIZON HOME LOAN CORPORATION**

, a **KANSAS** corporation 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 charges, 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:

James Allen Kashuba 1/24/05
JAMES ALLEN KASHUBA Date

Jennifer Lyn Kashuba 1/24/05
JENNIFER LYN KASHUBA Date

_____ Date

_____ Date

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