

12950555
3/15/2019 4:06:00 PM \$30.00
Book - 10761 Pg - 1117-1127
RASHELLE HOBBS
Recorder, Salt Lake County, UT
SURETY TITLE
BY: eCASH, DEPUTY - EF 11 P.

WHEN RECORDED, RETURN TO:
Red Stag Servicing
1695 Oak Lane
Kamas, UT 84036

Property Address: 3812 South Alta Loma Drive, Millcreek, UT 84016
Parcel ID No(s): 16-33-304-007

137821

**DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Deed of Trust") is made as of March 14, 2019, between **Blue Moon LLC, a Utah Limited Liability Company**, whose address is 160 East 200 North, Springville, UT 84663, as TRUSTOR, **First American Title Insurance Company**, whose address is 1 First American Way, Santa Ana, CA 92707, as TRUSTEE, and **Equity Trust Company Custodian FBO Kristine Pitts IRA**, whose address is P.O. Box 451340, Westlake, OH 44145, as BENEFICIARY.

TRUSTOR HEREBY GRANTS, TRANSFERS, CONVEYS, ASSIGNS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE AND FOR THE BENEFIT OF BENEFICIARY, the real property situated in Salt Lake County, State of Utah (known by common address of 3812 South Alta Loma Drive, Millcreek, UT 84016, and more particularly described in **Exhibit A** attached hereto and made a part hereof, together with all buildings, fixtures and improvements thereon and together with all present and future easements and rights used in connection with the real property or as a means of access to the property (the "Land"), and together with all right, title and interest that Trustor now has or may hereafter acquire in (collectively, the "Property"):

(1) all income, rents, royalties, revenue, issues, profits, proceeds and other benefits from any and all of the Land;

(2) all deposits made with or other security given to utility companies by Trustor with respect to the Land, and all advance payments of insurance premiums made by Trustor with respect thereto and all claims or demands relating to such deposits, other security and/or such insurance;

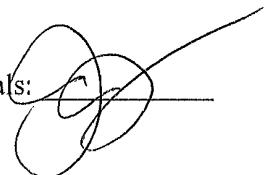
(3) all fixtures now or hereafter affixed to the Land, including all buildings, structures, equipment and improvements of every kind and description now or hereafter erected or placed thereon and all replacements, repairs, additions, accessions or substitutions or proceeds thereto or therefore;

(4) all damages, royalties and revenues of every kind, nature and description that Trustor may be entitled to receive from any person or entity owing or having or hereafter acquiring a right to the oil, gas or mineral rights and reservations of the Land, with the right in Beneficiary to receive and receipt therefore and to apply the same to the indebtedness secured hereby;

Deed of Trust

- Page 1 of 10 -

Trustor Initials:



(5) all proceeds and claims arising on account of any damage to or taking of the Property or any portion of the Land, and all causes of action and recoveries for any loss to or diminutions in the value of the Land;

(6) all licenses (including, but not limited to, any operating licenses or similar licenses), contracts, management contracts or agreements, franchise agreements, permits, authorities or certificates required or used in connection with the ownership of, or the operation or maintenance of the Land;

(7) all governmental permits relating to construction, all names under or by which the Land may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks, trade names, patents pending and goodwill; and

(8) all water, water rights, water shares, irrigation and/or ditch rights, whether appurtenant to or merely used in connection with the Land and all stock in, membership, ownership or other interests in, or rights to service from, any water or irrigation companies that provide service to the Land.

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by an Promissory Note (hereinafter the "Note") of even date herewith, in the maximum principal amount of \$50,250.00 made by Trustor and payable to the order of Beneficiary at the times, in the manner and with interest as set forth in the Note, and any modifications of the Note; (2) the performance of each agreement of Trustor contained both in this Deed of Trust and in the Note and all documents related thereto or executed in connection therewith; (3) the payment of such additional loans or advances as may be made to Trustor after the date of this Deed of Trust, whether or not evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms of this Deed of Trust, plus interest.

This Deed of Trust and the Note, and any other agreements given by Trustor to Beneficiary to secure the indebtedness evidenced by the Note, are sometimes referred to collectively as the "Loan Documents."

TRUSTOR REPRESENTS, WARRANTS, COVENANTS AND AGREES:

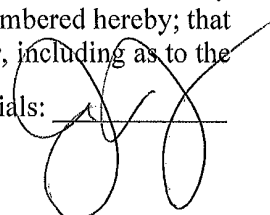
1. To keep the Property in good condition and repair; not to remove or demolish any building on the Property; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed on the Property; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste of the Property; not to commit, suffer or permit any act upon the Property in violation of law; and to do all other acts which from the character or use of the Property may be reasonably necessary.

2. That, at the time of the delivery of this Deed of Trust, Trustor holds title to an indefeasible estate in fee simple in the Property and has good right, full power and lawful authority to convey and encumber the same in the manner and form conveyed and encumbered hereby; that the same is free and clear of all liens, charges, and encumbrances whatsoever, including as to the

Deed of Trust

- Page 2 of 10 -

Trustor Initials:



fixtures, and all security agreements, conditional sales contracts and anything of similar nature; that there is no financing statement covering any portion of the Property; and that Trustor shall and will warrant and forever defend the title to the Property against the claims of all persons and parties.

3. To provide and maintain insurance of such type or types and amounts as are reasonable and customary on the Property, and to have Beneficiary included as a loss payee under such insurance. In the event of loss, Trustor shall give immediate notice to Beneficiary, who may make proof of loss, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to reduction of the indebtedness hereby secured or to the restoration or repair of the damaged Property. The insurance required by this paragraph shall include, at a minimum, all-risk property insurance and comprehensive general liability insurance in such minimum amounts as Beneficiary may require from time to time. Lender shall not be in any way responsible or liable for the debts, losses, obligations, or duties of Borrower with respect to the Property or otherwise. All obligations to pay impositions, insurance, premiums, and all other amounts owing in respect to the ownership, operation, occupancy, or use of the Property and all agreements, documents and instruments relating to the Property shall be the sole responsibility of Borrower.

4. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

5. To appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust, the title to the Property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorneys' fees incurred by Beneficiary or Trustee.

6. To pay all taxes, insurance and assessments of every kind or nature as and when due.

7. To pay as and when due all amounts payable or owing pursuant to the Loan Documents and to timely perform every obligation of Trustor under the Loan Documents, including but not limited to all payments under the Note. Should Trustor fail to make any payment or to do any act as provided herein or in the other Loan Documents, then Beneficiary or Trustee, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore (including cost of evidence of title), employ counsel, and pay reasonable legal fees.

8. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the applicable rate under the Note until paid, and the repayment thereof shall be secured hereby.

9. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefore, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights or action and proceeds, including the proceeds of any policies of fire and other insurance affecting the Property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorneys' fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

10. As additional security for payment of the indebtedness secured by this Deed of Trust, Trustor hereby assigns and grants a security interest to Beneficiary (i) all rents, issues, royalties, and profits of the Property, and (ii) all personal property and fixtures of the Trustor on the Property. Trustor irrevocably appoints Beneficiary its true and lawful attorney at the option of Beneficiary at any time to demand, receive, and enforce payment, to give receipts, releases, and satisfactions and to sue, either in the name of Trustor or in the name of Beneficiary, for all such income, rents, royalties, revenue, issues, profits and proceeds and apply the same to the indebtedness secured hereby. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties and profits earned prior to default as they become due and payable. If Trustor shall default, however, Trustor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Deed of Trust to any such tenancy, lease or option.

11. The occurrence of any of the following events shall constitute an event of default hereunder:

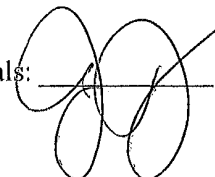
(a) breach or default in payment of any principal, interest, or any other indebtedness or payments of money evidenced by the Note or any other indebtedness or payments of money secured hereby;

(b) breach or default in performance of any term, covenant, condition or agreement under the Note, this Deed of Trust or under any of the other Loan Documents;

Deed of Trust

- Page 4 of 10 -

Trustor Initials:



BK 10761 PG 1120

(c) Trustor applies for or consents to the appointment of a receiver or trustee for it or any portion of its assets, or if such a receiver or trustee is appointed for Trustor or its property, or Trustor makes an assignment for the benefit of creditors, or Trustor admits in writing its inability to pay its debts as they become due, or Trustor becomes insolvent, or a petition is filed by Trustor pursuant to any of the provisions of the United States Bankruptcy Code or any similar or successor statute or such a petition is filed against Trustor; or

(d) there is an attachment to any of the assets of Trustor and the same is not discharged within sixty (60) days;

(e) Trustor shall cause or institute or there shall be instituted against Trustor any proceeding for the dissolution or termination of Trustor;

(f) any representation, warranty or disclosure made to Beneficiary by Trustor proves to be materially false or misleading on the date as of which made, whether or not that representation or disclosure appears in the Loan Documents; or

(g) all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred) without Lender's prior written consent.

12. Upon the occurrence of any default hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby irrevocably consenting to the appointment a receiver by a Court of competent jurisdiction), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in its own name sue for or otherwise collect said rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

13. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damages of the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. Upon the occurrence of any default hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary.

15. Time is of the essence of this Deed of Trust.

16. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose upon the Property in any manner provided by law for the foreclosure of mortgages, trust deeds, or security agreements, and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including reasonable attorneys' fees.

17. The right to plead any and all statutes of limitation as a defense to any demand secured by or made pursuant to this Deed of Trust is hereby waived to the full extent permitted by

Deed of Trust

- Page 5 of 10 -

Trustor Initials: 

law. Trustor waives any and all rights to redeem the Property from sale under any judgment of foreclosure of this mortgage, on Trustor's behalf and on behalf of all other persons, except judgment creditors of Trustor, who acquire any interest in the Property after the date of this mortgage. Trustor waives all right of homestead exemption in the Property.

18. Regardless of whether a default has occurred or not, Beneficiary or its agent(s) may make reasonable entries upon and inspections of the Property. Beneficiary shall give Trustor notice before or at the time of an inspection specifying reasonable cause for the inspection.

19. Trustor covenants and agrees that the acceptance by Beneficiary of any sum secured hereby after its due date, or in an amount less than the sum then due, shall not constitute a waiver by Beneficiary of its rights either to require prompt payment when due of all other sums so secured or to declare a default or exercise such other rights as herein provided for failure so to pay. No failure by Beneficiary to insist upon strict performance of any term, covenant or condition hereof, nor failure to exercise any right or remedy hereunder shall constitute a waiver of any such breach of such term, covenant or condition or of the later exercise of such right or remedy.

20. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

21. This Deed of Trust constitutes a security agreement with respect to all personal property and fixtures in which Beneficiary is granted a security interest under this Deed of Trust and the proceeds thereof, and Beneficiary shall have all of the rights and remedies of a secured party under the Uniform Commercial Code (whether now existing or created after the date of this Deed of Trust), as well as any other rights and remedies available at law or in equity. This Deed of Trust, with Trustor, as debtor, and Beneficiary, as secured party, also constitutes a fixture filing with respect to any part of the property which is or may become a fixture. The record owner of the Property is Trustor. Trustor shall immediately notify Beneficiary if the name or identity of Trustor is changed, or if the place of business of Trustor is changed to an address different from the address for Trustor set forth in the first paragraph of this Deed of Trust. With respect to any instrument or chattel paper covered by this Deed of Trust, neither Trustee nor Beneficiary need take any steps to preserve rights against prior parties.

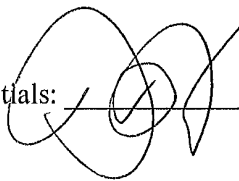
22. The Trust created hereby is irrevocable by Trustor unless and until the Property is reconveyed to Trustor at the direction of Beneficiary.

23. Trustor shall not sell, encumber or transfer the Property, or any portion of it, without the Beneficiary's prior express written consent. Any sale, encumbrance or transfer otherwise is void, and is a material default of this Trust Deed. Likewise, if Trustor is an entity and not a natural person, Trustor shall not transfer, assign, sale, or convey more than 50% of the membership or ownership interest, or the controlling management authority, in Trustor without Beneficiary's advance written consent, and any such transfer, assignment, sale, or conveyance made without Beneficiary's written consent is void, and is a material default of this Trust Deed.

24. Trustor covenants as follows:

Deed of Trust

- Page 6 of 10 -

Trustor Initials: 

BK 10761 PG 1122

(a) Trustor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the property or transport to or from the property any Hazardous Substance (as defined herein) or allow any other person or entity to do so.

(b) Trustor shall keep and maintain the property in compliance with, and shall not cause or permit the property to be in violation of any Environmental Law (as defined herein).

(c) Trustor shall give prompt written notice to Beneficiary of:

(i) any proceeding or inquiry by any governmental authority with respect to the presence of any Hazardous Substance on the property or the migration thereof from or to other property;

(ii) all claims made or threatened by any third party against Trustor or the property relating to any loss or injury resulting from any Hazardous Substance; and

(iii) Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the property that could cause the property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the property under any Environmental Law including without limitation Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the property that could cause the property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the property under any Environmental Law.

(d) Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Environmental Law and have its attorneys' fees in connection therewith paid by Trustor.

(e) Trustor shall protect, indemnify, defend and hold harmless Beneficiary, its directors, officers, members, employees, agents, successors and assigns from and against any and all loss, damage, cost, expense or liability (including attorneys' fees and costs) directly or indirectly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under or about the property including without limitation (i) all foreseeable consequential damages; and (ii) the costs of any required or necessary repair, cleanup or detoxification of the property and the preparation and implementation of any closure, remedial or other required plans. This indemnity shall survive the reconveyance of the lien of this Deed of Trust, or the extinguishment of the lien by foreclosure or action in lieu thereof, and this covenant shall survive such reconveyance or extinguishment.

(f) In the event of that any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature (the "Remedial Work") is reasonably necessary or desirable under any applicable local, state or federal law or regulation, any judicial order, or by any governmental or nongovernmental entity or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release

of a Hazardous Substance in or into the air, soil, groundwater, surface water or soil vapor at, on, about, under or within the property (or any portion thereof), Trustor shall within thirty (30) days after written demand for performance thereof by Beneficiary (or such shorter period of time as may be required under any applicable law, regulation, order or agreement), commence to perform, or cause to be commenced, and thereafter diligently prosecuted to completion, all such Remedial Work. All Remedial Work shall be performed by one or more contractors, approved in advance in writing by Beneficiary, and under the supervision of a consulting engineer approved in advance in writing by Beneficiary. All costs and expenses of such Remedial Work shall be paid by Trustor including, without limitation, the charges of such contractor(s) and/or the consulting engineer, and Beneficiary's reasonable attorneys' fees and costs incurred in connection with monitoring or review of such Remedial Work. In the event Trustor shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, Beneficiary may, but shall not be required to, cause such Remedial Work to be performed and all costs and expenses thereof, or incurred in connection therewith, shall become part of the indebtedness secured hereby.

"Environmental Laws" shall mean any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Property.

The term "Hazardous Substance" is used in its very broadest sense and means any hazardous or toxic substance, petroleum and petroleum byproducts, asbestos, and any other materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled.

25. This Deed of Trust shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder of the Note. In this Deed of Trust, whenever the context requires, the masculine gender includes the feminine and/or neuter, and the singular includes the plural.

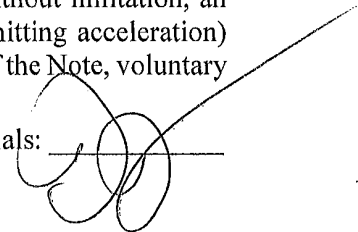
26. If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Deed of Trust except that if such provision relates to the payment of any monetary sum, then, Beneficiary may, at its option declare the indebtedness and all other sums secured hereby immediately due and payable.

27. It is the intention of Trustor and Beneficiary to conform strictly to the usury laws now or hereafter in force in the State of Utah, if any, and any interest payable under the Note, this Deed of Trust, and/or any of the other documents or instruments executed by Trustor in connection with the loan made or to be made under the Note shall be subject to reduction to the amount not in excess of the maximum nonusurious amount allowed under the usury laws as now or hereafter construed by the courts having jurisdiction over such matters. In the event the maturity of the Note is accelerated by reason of any provision of this Deed of Trust including, without limitation, an election by Beneficiary resulting from an event of default (or an event permitting acceleration) under this Deed of Trust or any other instrument given to secure the payment of the Note, voluntary

Deed of Trust

- Page 8 of 10 -

Trustor Initials: _____



BK 10761 PG 1124

prepayment of the Note, or otherwise, then earned interest may never include more than the maximum amount permitted by law, computed from the dates of each advance of loan proceeds until payment, and any interest in excess of the maximum amount permitted by law shall be credited to the unpaid principal balance of the Note, or if all principal has been repaid, then the excess shall be rebated to Trustor. The aggregate of all interest contracted for, chargeable, or receivable under the Note, this Deed of Trust, or any other document executed in connection with this loan transaction shall under no circumstances exceed the maximum legal rate upon the unpaid principal balance of the Note remaining unpaid from time to time. In the event such interest does exceed the maximum legal rate, it shall be deemed a mistake and such excess (and only such excess) shall be canceled automatically and if theretofore paid, credited on the unpaid principal balance of the Note, or if the Note has been repaid, then such excess shall be rebated to Trustor.

28. This Deed of Trust shall be interpreted, enforced and construed according to the laws of the state in which the Property is located.

29. Unless otherwise specifically provided herein or by applicable law, all notices shall be in writing addressed to the respective party and may be personally delivered, sent by reputable overnight courier service, or sent by United States mail, return receipt requested. Such notices shall be deemed to have been given: (a) if delivered in person, on the date of delivery; (b) if delivered by overnight courier, on the date that delivery is first attempted; or (c) if by United States mail, on the earlier of three (3) business days after depositing in the United States mail, postage prepaid and properly addressed, or the date delivery is first attempted. Notices shall be addressed as set forth in the introductory paragraph of this Deed of Trust, or to such other address as the party to whom such notice is intended shall have previously designated by written notice to the serving party.

30. Notwithstanding any term or provision contained herein, save and except Trustor's right, title and interest now and hereafter held or acquired in and to the Property which has been pledged, assigned, granted and liened to secure the debt evidenced by the Note as provided herein, Trustor shall have no personal liability for the debt evidenced by the Note or any of the representations, warranties or covenants contained herein; provided, however, that nothing contained in this paragraph shall limit Trustor's grants, pledges, assignments and liens made or provided hereby, the same shall secure the debt evidenced by the Note and all obligations under the Loan Documents as provided herein, and Beneficiary may foreclose upon and realize on any and all such collateral, the Property, and/or the interests of Trustor in the Property to secure, pay and satisfy the debt evidenced by the Note and such obligations evidenced by the Loan Documents as provided in and by this Deed of Trust.

[End of Agreement - Signature Page(s) to Follow]

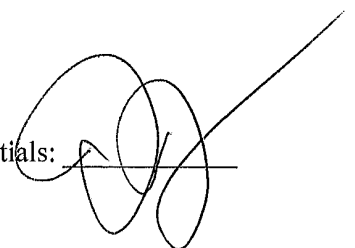
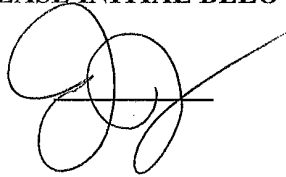
A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, positioned over a horizontal line.

Exhibit A

ALL OF LOT 3, RANCHO VILLA NO. 3, ACCORDING TO THE OFFICIAL PLAT
THEREOF ON FILE AND OF RECORD IN THE COUNTY RECORDER'S OFFICE OF SAID
COUNTY.

Tax ID No. 16-33-304-007

PLEASE INITIAL BELOW

A handwritten signature or set of initials, possibly "JG", written in black ink. The signature is stylized with loops and a horizontal line crossing through the middle.