

WHEN RECORDED, MAIL TO:  
 AMERICA FIRST CREDIT UNION  
 P.O. Box 9199 Ogden, Utah 84409

HOME ABSTRACT & TITLE / #D112738  
 316403-5.9

**TRUST DEED**

THIS TRUST DEED, made this 1 S T day of FEBRUARY, 2001, between \_\_\_\_\_

D. RICHARD CLARK

, as TRUSTOR, whose address is

1261 EAST HILLSDEN ROAD

LAYTON, UT 84040

(Street and Number)

(City)

(State)

AMERICA FIRST CREDIT UNION, AS TRUSTEE, AND AMERICA FIRST CREDIT UNION, AS BENEFICIARY.

WITNESSETH: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property, situated in DAVIS County, State of UTAH :

ALL OF LOT 8, SNOW CREEK, LAYTON CITY, DAVIS COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF.

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 SHERYL L. WHITE, DAVIS CNTY RECORDER  
 2001 FEB 6 10:41 AM FEE 14.00 DEP REC  
 REC'D FOR HOME ABST & TITLE CO

Property Address: 1261 EAST HILLSDEN ROAD, LAYTON, UT 84040  
 Property Tax I.D. # 11-009-0008

Together with all the estate, right, title and interest, including insurance, which Trustor now has or may hereafter acquire, either in law or in equity in and to said premises; to have and to hold the same, together with the buildings and improvements thereon and all alterations, additions or improvements now or hereafter made thereto, including all equipment, appliances and fixtures now or hereafter installed or placed in said buildings or on said real property for the generation or distribution of air, water, heat, electricity, light, fuel or refrigeration or for ventilating or air conditioning purposes, or for sanitary or drainage purposes, and including stoves, ranges, cabinets, awnings, window shades, venetian blinds, drapery rods and brackets, screens, floor coverings (including all rugs and carpets attached to floors) and all other similar items and things; all of the items and things so specified and all other similar items or things, whether now or hereafter placed on the property, being hereby declared to be, and in all circumstances, shall be construed to be, for and in connection with the purposes and powers of the Trust Deed, things affixed to and a part of the realty described herein; the specific enumerations herein not excluding the general, and together with all singular lands, tenements, hereditaments, reversion(s), remainder(s), privileges, water rights and appurtenances of every kind and nature thereto belonging or in any way appertaining to, or which may be hereafter acquired and used or enjoyed with, said property, and any part thereof, SUBJECT HOWEVER, to the right, power and authority hereinafter given to and conferred upon beneficiary to collect and apply such rents, issues, and profits.

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by a promissory note of even date herewith, in the principal sum of \$ 50,800.00 FIFTY THOUSAND EIGHT HUNDRED DOLLARS AND ZERO CENTS made by Trustor, payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof; (2) the performance of each agreement of Trustor herein contained; (3) the payment of such additional loans or advances as hereafter may be made to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Trust Deed; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES

- To occupy the Property as Trustor's principal residence for at least one year after the date of this Trust Deed, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Trustor's control, or unless occupancy was waived at the time of this Trust deed. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon, to comply with all laws, covenants and restrictions affecting said property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law, and to do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general; and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on said property, Trustor further agrees:
  - To commence construction promptly and to pursue same with reasonable diligence to completion in accordance with plans and specifications satisfactory to Beneficiary, and

(b) To allow Beneficiary to inspect said property at all times during construction.

Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

2. To keep 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 Beneficiary requires. Such insurance shall be carried in companies approved by Beneficiary with loss payable clauses acceptable to Beneficiary. In 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 the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In the event that the Trustor shall fail to maintain satisfactory hazard insurance, the Beneficiary may procure, on the Trustor's behalf, insurance in favor of the Beneficiary alone. If insurance cannot be secured by the Trustor to provide the required coverage, this will constitute an active default under the terms of this Trust Deed. In the event of the foreclosure of this Trust Deed or other transfer of title to the granted property in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of the Trustor in and to any insurance policy then in force shall pass to the purchaser or grantee.

3. To deliver to, pay for and maintain with Beneficiary until the indebtedness and other obligations secured hereby are paid and performed 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.

4. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said 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 court costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

5. To pay, at least ten (10) days before delinquency, all taxes and assessments affecting said property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with said property, if any; to pay, when due, all encumbrances, charges, and liens with interest on said property or any part thereof, which at any time appear to be prior or superior hereto and have not been previously consented to in writing by Beneficiary; and to pay all costs, fees and expenses of this Trust.

6. That the Beneficiary shall have the right to inspect said property at any and all times during usual business hours.

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

IT IS MUTALLY AGREED THAT:

E 1637957 82746 P 265

8. Upon Beneficiary's request, Trustor shall pay to Beneficiary on the day monthly installments are payable under the Agreement, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments which may attain priority over this Trust Deed, plus one-twelfth of yearly premium installments for hazard insurance, all as reasonably estimated initially and from time to time by Beneficiary on the basis of assessments, bills and reasonable estimates thereof.

The funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Beneficiary). Beneficiary shall apply the Funds to pay said taxes, assessments, and insurance premiums. Beneficiary may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Beneficiary pays Trustor interest on the funds and applicable law permits Beneficiary to make such a charge. Unless applicable law requires interest to be paid, Beneficiary shall not be required to pay Trustor any interest or earnings on the Funds. The Funds are pledged as additional security for the sums secured by this Trust Deed.

If the amount of the Funds held by Beneficiary, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, and insurance premiums, shall exceed the amount required to pay said taxes, assessments, and insurance premiums as they fall due, such excess shall be, at Beneficiary's option, either promptly repaid to Trustor or credited to Trustor on monthly installments of Funds. If the amount of the funds held by Beneficiary shall not be sufficient to pay taxes, assessments, and insurance premiums as they fall due, Trustor shall pay to Beneficiary any amount necessary to make up the deficiency within thirty (30) days from the date notice is mailed by Beneficiary to Trustor requesting payment thereof.

9. Should Trustor fail to make any payment or to do any act as herein provided, 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 thereof, 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 said 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 not previously consented to in writing by Beneficiary; and in exercising any such power, incur any liability, expend whatever amounts in their absolute discretion they may deem necessary therefore, including cost of evidence of title, employment of counsel, and payment of reasonable counsel fees.

10. Should said 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 of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness and payments 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.

11. At any time, and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the Agreement for cancellation and retention, without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge hereof; (d) grant any extension or modifications of the terms of the Agreement; (e) reconvey without warranty all or any part of said property; (f) take other or additional security for the payment of the obligations secured hereby. The grantee in any reconveyance may be described as "the person or persons entitled thereto," and the recitals therein of any matters of fact shall be conclusive proof of the truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

12. The collection of the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said 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.

13. As additional security, Trustor hereby assigns to Beneficiary, during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Trust Deed. 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 as aforesaid, 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 Trust Deed to any such tenancy, lease or option.

14. Upon any default by Trustor 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 consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said 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 attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

15. The entering upon and taking possession of said 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 damage of said 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.

16. Failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default or acceptance of payment of any sum secured hereby after its due date shall not constitute a waiver of any other subsequent default.

17. Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder or pursuant to the Agreement or in the event a receiver or a Trustee is appointed for Trustor or Trustor's property, or Trustor makes an assignment for benefit of creditors, or Trustor becomes insolvent, or a petition is filed by or against Trustor in bankruptcy or pursuant to any law for the relief of debtors, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy all obligations secured hereby, and Trustee shall file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee the Agreement and all documents evidencing expenditures secured hereby.

18. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. Trustee may, in accordance with applicable law, postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) cost of any evidence of title procured in connection with such sale; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the interest rate provided in the Agreement from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

19. Trustor agrees to surrender possession of the hereinabove described Trust property to the Purchaser at the aforesaid sale, immediately after such sale, in the event such possession has not previously been surrendered by Trustor.

20. Upon the occurrence of any default hereunder or under the provisions of the Agreement, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including a reasonable attorney's fee in such amount as shall be fixed by the court.

21. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of each county in which said property or some part thereof is situated, a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title of the trustee named herein or of any successor trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given a proof thereof made, in the manner provided by law.

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

23. Trustee accepts this Trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Trust Deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

24. This Trust Deed shall be construed according to the laws of the Applicable State. E 1637957 B 2746 P 266

25. Notwithstanding any provision herein or in the Agreement, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the applicable laws of the Applicable State.

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 Trust Deed.

27. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to him at the address hereinbefore set forth.

28. IF 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 AND TRUSTOR IS NOT A NATURAL PERSON), THE BENEFICIARY SHALL REQUIRE IMMEDIATE PAYMENT IN FULL OF ALL AMOUNTS OWED UNDER THE AGREEMENT AND THIS TRUST DEED.

TRUSTOR:

*D. Richard Clark*  
D. RICHARD CLARK

STATE OF Utah )  
:SS.  
COUNTY OF DAVID )

On the 1ST day of FEBRUARY, 2001, personally appeared before me  
D. RICHARD CLARK

who duly acknowledged that he executed the above Trust Deed.

*Roseanne A. Daubney*  
Notary Public

Residing in West Point UT 84015

My Commission Expires: 8 August 2004

