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Assessor's Parcel #: 07-370-08

Official Record

RECORDING REQUESTED BY AND  
RETURN TO:

Requested By  
WESTERN NEVADA TITLE COMPANY

Eureka County - NV

Mike Rebaleati - Recorder

Western Nevada Title Company  
2258 Reno Hwy., Suite A  
Fallon, Nevada 89406  
11-33961-11

Page: 1 of 9 Fee: \$22.00

Recorded By FS RPTT: \$0.00

Book- 0527 Page- 0136



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**DEED OF TRUST AND SECURITY AGREEMENT  
WITH ASSIGNMENT OF RENTS**

THIS DEED OF TRUST AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS, (hereinafter "Deed of Trust") is made this 27<sup>th</sup> day of December, 2011, between JAMES D. HOPPER, JR. and MARY MICHELE DAVIS, husband and wife, of the County of Eureka, State of Nevada, hereinafter referred to as Trustor, WESTERN NEVADA TITLE COMPANY, a Nevada Corporation, hereinafter referred to as Trustee, and ERNEST L. ALLEN, an unmarried man of PO Box 121, Eureka, Nevada 89316, of the County of Eureka, State of Nevada, hereinafter referred to as Beneficiary,

**W I T N E S S E T H:**

WHEREAS, the Trustor is indebted to the Beneficiary in the sum of ONE HUNDRED NINETY THOUSAND DOLLARS (\$190,000.00), and has agreed to pay the same according to the terms of a certain promissory note of even date herewith, executed and delivered by the Trustor to the Beneficiary, with interest thereon, and all extensions, renewals or modifications and the payment of all other sums with interest thereon advanced for the same purpose as the purpose of the original amount of the Note referred to above or for the improvement or protection of the Property hereinafter described, and the performance of the covenants and agreements of Trustor herein contained; and the repayment of any future advance with interest hereon made to Trustor by Beneficiary pursuant to Paragraph 14 hereof, provided the notes representing those advances indicate that they are secured by this Deed of Trust and,

WHEREAS, this deed of trust is intended to secure the payment of said promissory note, and

NOW, THEREFORE, the Trustor, for the purpose of securing the payment of the sums due under said promissory

note, and also of all other monies herein agreed or provided to be paid by the Trustor, or which may be paid out or advanced by the Beneficiary to the Trustee under the provisions of this instrument, with the interest in each case, grant unto the Trustee all that certain lot, piece, or parcel of land situate in the County of Eureka, State of Nevada, more particularly bounded and described as follows, to-wit, together with the described personal property:

Parcel C as shown on that certain Parcel Map for Norbert Walter and Eileen Walter filed November 15, 1988, as File No. 124822, Eureka County, Nevada located in a portion of Section 28, T.20N., R.53E., MDB&M.

TOGETHER WITH, all the improvements now or hereafter erected on the property, and all easements, appurtenances, rents (subject to the rights and authorities given herein to Beneficiary to collect and apply the rents), royalties, mineral, oil and gas rights and profits, geothermal rights, water, water rights, and all fixtures now or hereafter attached to the property, including the following described personal property currently located at 161 Hwy. 278, Eureka, Nevada, including replacements and additions thereto, hereinafter referred to as "Property":

One (1) 1983 Champion Tamarack, 14'x52', mobile home, S/N 1638114109IDA.

COVENANTS. Trustor and Beneficiary covenant and agree as follows:

1. **Payment of Principal and Interest.** Trustor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, late charges as provided in the Note, or additional debt secured by this Deed of Trust.

2. **Hazard Insurance.** Trustor, at its expense, will maintain with insurers approved by Beneficiary: (a) Insurance with respect to improvements including without limitation, the mobile homes referred to herein, against loss by damage by fire included under "extended coverage" policies, and any other hazard Beneficiary requires, in an amount approved from time to time by Beneficiary, with a replacement cost indorsement without depreciation; (b) public liability and



property damage insurance applicable to the Property in amounts approved from time to time by Beneficiary, with an indorsement naming Beneficiary as an additional insured as its interest may appear. All insurance maintained by Trustor shall: (i) except for liability insurance, contain a standard noncontributory mortgagee's indorsement in favor of Beneficiary; (ii) provide that, except in the case of public liability insurance, insurance proceeds shall be payable to Beneficiary, and in the case of hazard insurance pursuant to the applicable Nevada Standard Mortgage clause; (iii) provide that any losses shall be payable notwithstanding any act or failure to act or negligence of Beneficiary or Trustor or any other person; (iv) provide that no cancellation or reduction in amount, or material change in coverage thereof shall be effective until at least 30 days after receipt by Beneficiary and Trustor of written notice thereof, and (v) contain only such deductibles, if any, as Beneficiary may approve, and be reasonably satisfactory to Beneficiary in all other respects. Any such insurance may, at Trustor's option, be provided through a blanket policy or policies. Upon the execution of this Deed of Trust and thereafter not less than thirty (30) days prior to the expiration date of any policy provided for herein, Trustor will deliver to Beneficiary the original of any policy or renewal policy required by this Deed of Trust bearing notations evidencing the payment of premiums, except that, in lieu of any such policy, Trustor may, with Beneficiary's consent, deliver a certificate of the insurer, satisfactory to Beneficiary in substance and in form, as to the issuance and effectiveness of such policy and the amount of such policy. Delivery of the policy of insurance or a certificate of the insurer shall constitute assignment to Beneficiary of any returned premiums.

3. **Preservation and Maintenance of Property.**

Trustor shall keep the Property in good repair and shall not permit or commit waste, impairment, or deterioration of the Property or remove, demolish or materially alter any building or other property subject to the Deed of Trust and to care for the Property in a proper manner. Except upon the prior written consent of Beneficiary, the Property shall be kept and maintained at the following address: 161 Hwy. 278, Eureka, Nevada.

4. **Protection of Beneficiary's Security.**

If Trustor fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Beneficiary's



interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or a decedent, then Beneficiary at Beneficiary's option, upon notice to Trustor, may make any appearances, disburse any sums and take any action necessary to protect Beneficiary's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs. Any amounts disbursed by Beneficiary pursuant to this paragraph, with interest thereon at \_\_\_\_\_ PERCENT ( \_\_ %) per annum, shall become additional indebtedness of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree to other terms of payment, the amount shall be payable upon notice from Beneficiary to Trustor requesting payment thereof, and shall bear interest from the date of disbursement.

5. **Inspection.** Beneficiary shall at all times have unlimited access to the Property for the purpose of inspecting same and of ascertaining that the various requirements, conditions, restrictions and covenants contained in this Deed of Trust have been met in a manner satisfactory to Beneficiary.

6. **Condemnation.** The proceeds of any award or claim for damages direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for any conveyance in lieu of condemnation, are hereby assigned, and shall be paid to Beneficiary.

If the Property is abandoned by Trustor or if after notice by Beneficiary to Trustor that the condemnor offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within 30 days of the date of the notice, Beneficiary is authorized to collect the proceeds. The amount paid to Beneficiary may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount, or any part, may be applied to repair or restoration of the Property or released to Trustor. The application or release shall not cure or waive any default or notice of default or invalidate any act done pursuant to a notice of default.

Unless Trustor and Beneficiary otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the installments referred to in Paragraph 1 hereon or change the amount of the installments.



7. **Trustor not released.** Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted to Beneficiary shall not operate to release, in any manner, the liability of the Trustor.

8. **Successors and assigns bound; joint and several liability; captions.** The provisions of this Deed of Trust shall bind, the right hereunder shall inure, to the respective successors and assigns of Beneficiary and Trustor. All covenants and agreements of Trustor shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions herein. Nothing contained in this paragraph is intended to expand or enlarge upon Trustor's right to assign or sell the Property or cause to be assumed the obligation secured by this Deed of Trust.

9. **Notice.** Any notice provided for in this Deed of Trust shall be mailed by certified mail to Trustor at **PO Box 892, Eureka, Nevada 89316** or to any address Trustor may designate; and to Beneficiary by certified mail to Beneficiary's address.

10. **Governing Law; severability.** This Deed of Trust shall be governed by the law of Nevada. In the event that any provision of clause of this Deed of Trust or the Note conflicts with applicable law, the conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provisions, and to this end the provisions of this Deed of Trust and the Note are declared to be severable.

11. **Events of Default and Due on Sale Clause.** Trustor shall be in default under this Deed of Trust if any one or more of the following events occur:

a) Trustor fails to pay any installments or principal or interest due on the Note or any other indebtedness secured by this Deed of Trust when it becomes due.

b) Trustor fails to perform or comply with any of the terms, conditions, requirements, restrictions and covenants hereof or of the Note.

c) Trustor fails to perform or comply with any of the terms, conditions, requirements, restrictions and covenants of any other instrument securing the Note.

d) Trustor or any guarantor makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts as they become due or files a petition in bankruptcy or is adjudicated a bankrupt or insolvent, or files





a petition seeking a reorganization, arrangement, composition, adjustment, liquidation, dissolution, or similar relief under any present or future statutes, law or regulations, or fails to file an answer or to seasonably contest the material allegations of a petition filed against it in any such proceeding, or seeks to consent or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties.

e) If, within sixty (60) days after the commencement of any proceeding against Trustor or guarantor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statutes, law, or regulation, such proceeding is not dismissed, or if within sixty (60) days after the appointment without the consent or acquiescence of Trustor or guarantor, of any Trustee, receiver or liquidator of any material part of its properties, the appointment shall not have been vacated.

f) In the event the Property, or any part thereof, is sold, transferred or alienated by Trustor in any way, or by operation of law, or otherwise, all obligations set forth in the Promissory Note which this instrument secures, irrespective of the maturity dates expressed therein, shall become due and payable at the option of Beneficiary, unless such sale or transfer is first authorized by Beneficiary in writing.

12. **Acceleration; Receiver, Remedies.** Upon default as defined herein, Beneficiary may (a) declare all sums secured immediately due and payable without demand or notice, and (b) have a receiver appointed as a matter of right, without regard to the sufficiency of the Property or any other security or guaranty and without any showing as required by N.R.S. 107.100, (c) sell the Property secured herein through foreclosure sale as directed by Chapter 107 N.R.S. If Beneficiary holds additional security for any obligation secured by this Deed of Trust, it may enforce its sale of the other security before or after a sale hereunder. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or afforded by law or equity and may be exercised concurrently, independently or successively.

13. **Assignment of Rents; Beneficiary in Possession.** As an additional security, Trustor hereby assigns to Beneficiary the rents and profits of the Property, provided the Trustor shall, prior to default or abandonment of the



Property, have the right to collect and retain the rents as they become due and payable. Trustor will not collect or accept any payment of rent under any lease for more than six (6) months in advance and will duly observe and perform each of its obligations under each lease. The assignment contained herein shall not be deemed to impose upon Beneficiary any obligation of Trustor under any lease or any obligation to collect rent.

Upon default or abandonment of the Property, Beneficiary, in person, by agent or by judicially appointed receiver, shall be entitled to (a) collect the rents and profits without taking possession of the Property, or (b) to enter upon, take possession of and manage the Property and to collect the rents and profits of the Property, including those past due. All rents and profits collected by Beneficiary or the receiver shall be applied first to payment of the costs of the management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Deed of Trust. Beneficiary and the receiver shall be liable to account only for those rents actually received.

14. **Future advances.** Upon Request of Trustor, Beneficiary, at Beneficiary's option prior to full reconveyance of the Property by Trustee to Trustor, may make future advances to Trustor. Future advances, with interest thereon, shall be secured by the Deed of Trust, provided the notes so indicate.

15. **Damage or destruction; application of insurance.** In case of any damage to or destruction of the Property, the amount paid to Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount or any part, may be applied to repair or restoration of the Property or released to Trustor. The application or release shall not cure or waive any default or notice of default, or invalidate any act done pursuant to a Notice of Default.

Unless Trustor and Beneficiary otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in Paragraph 1 hereof, or change the amount of the installments.

16. **Statutory Covenants.** The following covenants: Numbers 1, 2 \$ Reasonable, 3, 4 7%, 5, 6, 7 (reasonable), 8, and 9 of Nevada Revised Statutes, Section



107.030 relating to transfers in trust of estates in real property, to secure the performance of an obligation, or the payment of a debt, and to provide that certain covenants, agreements obligations, rights and remedies thereunder may be adopted by reference, and other matters relating thereto, are hereby adopted and made a part of this deed of trust.

17. **Lender's right to Deal with Collateral.**

Without affecting the liability of any person, including Trustor, for payment of any indebtedness secured hereby, or the lien of this Deed of Trust on the remainder of the Property for the full amount of any indebtedness unpaid (other than any person or property specifically released by Beneficiary) Beneficiary and Trustee are respectively empowered as follows: Beneficiary may from time to time and without notice, do any one or more of the following: (a) release any person liable for the payment of any of the indebtedness; (b) extend the time or otherwise alter the term of the payment of any of the indebtedness; (c) accept additional security therefor of any kind, including deeds of trust or mortgages; (d) alter, substitute or release any property securing the indebtedness; trustee may, at any time, and from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement: (1) consent to the making of any map or plat of the Property; (2) join in granting any easement or creating any restriction thereon; (3) join in any subordination or other agreement affecting this Deed of Trust or the lien or charge thereof; (4) reconvey, without warranty, any part of the Property.

18. **Security Agreement.** To the extent this Deed of Trust encumbers personal property, it is intended to be a Security Agreement and to create a security interest in the personal property pursuant to the Nevada Uniform Commercial Code. A UCC-1 financing statement may be recorded in connection with this document. Trustor understands and agrees that the personal property described herein may be sold at Trustee's Sale in conjunction with the real property described herein and upon which the personal property is situate upon any default as defined herein.

19. **Compliance with laws.** Trustor agrees to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property; not to suffer or permit any act to be done in or upon the Property in violation thereof.





