

DEED OF TRUST

(Truckee Home Access Program (THAP))

ADMINISTRATIVE COVER SHEET

(Remove Upon Completion)

CHECKLIST

- _____ Date of Document, p. 1, first paragraph
- _____ Trustor's Name, p. 1, first paragraph
- _____ Trustee's Name, p. 1, first paragraph
- _____ Trustor's Address, p. 1 first paragraph
- _____ APN of Residence Purchased, p. 1, second paragraph
- _____ Amount of Agency Loan, p. 1, third paragraph
- _____ First Lender's Name, p. 2, Section 1
- _____ Signature, p. 9
- _____ Notary
- _____ Include Exhibit A, Property Description

Recording Requested By:

and

**Return to: Town of Truckee
Kelly Carpenter, Town Clerk
10183 Truckee Airport Road
Truckee CA 96161**

Escrow No

Not Subject to Fees: GCS 27383

NOTE TO TRUSTOR:

THIS DOCUMENT CONTAINS PROVISIONS RESTRICTING ASSUMPTIONS

DEED OF TRUST AND SECURITY AGREEMENT

(Truckee Home Access Program (THAP))

This Deed of Trust and Security Agreement ("Deed of Trust") made this day ____ 20 __, among _____, ("Trustor"), whose address is _____, _____ ("Trustee"), and the Town of Truckee, a California municipal corporation ("Town ") as Beneficiary.

RECITALS

- A. Trustor owns fee simple title to the real property known as **APN** _____, located in the Town of Truckee, State of California as more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("Property").
- B. Trustor has accepted a loan from Beneficiary in the amount of \$ _____ (the "Loan") and has executed that certain promissory note (the "Note") in favor of Beneficiary as of the date of this Deed of Trust.
- C. As a condition to making the Loan, Beneficiary has required that Trustor enter into this Deed of Trust and grant to Trustee for the benefit of Beneficiary, a lien and security interest in the Property (as defined below) to secure repayment of the Loan.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustor agrees as follows:

Trustor irrevocably grants and conveys the Property to Trustee, in trust, with power of sale, together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), all of which shall be deemed to be and remain a part of the Property secured by this Deed of Trust; and all of the foregoing are hereinafter referred to as the "Property".

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including (without limiting the generality of the foregoing) all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and description now or hereafter erected thereon, and all property of the Trustor now or hereafter affixed to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to said Property and intended to be installed herein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent Beneficiary has an interest in such awards for taking; and

TOGETHER WITH all Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are, or shall be attached to said building or buildings in any manner.

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs, and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing.

All of the foregoing, together with the Property, is herein referred to as the "Security." To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

TO SECURE to the Town the performance of the covenants and agreements of Trustor contained in that certain Deed Restriction (the "Deed Restriction") executed by and between the Trustor and the Town as of the date of recordation of the Deed Restriction; and

TO SECURE to the Town payment that may become due by the Trustor to Town which payment obligation is evidenced by that certain Deed Restriction executed by Trustor in favor of the Town as of the date of this Deed of Trust and by the Note; and

TO SECURE the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Trustor herein contained.

TRUSTOR AND TOWN COVENANT AND HEREBY AGREE AS FOLLOWS:

1. Trustor's Estate. That Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Security, that other than this Deed of Trust, the Security is encumbered only by a deed of trust executed by Trustor securing repayment of a mortgage loan issued by _____. Trustor agrees to warrant and defend generally the title to the Security against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring the Town 's interest in the Security.
2. Charges; Liens. Trustor will pay all taxes, assessments and other charges, fines and impositions attributable to the Security which may attain a priority over this Deed of Trust, by Trustor making any payment, when due, directly to the payee thereof. Upon request by the Town, Trustor will promptly furnish to the Town all notices of amounts due under this paragraph. In the event Trustor makes payment directly, Trustor will promptly discharge any lien which has priority over this Deed of Trust; provided, that Trustor will not be required to discharge the lien

of the Deed of Trust securing the deed restriction or any other lien described in this paragraph so long as Trustor will agree in writing to the terms of the obligation secured by such lien in a manner acceptable to the Town, or will, in good faith, contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Security or any part thereof.

3. Deed Restriction. Trustor will observe and perform all of the covenants and agreements of the Deed Restriction, Deed of Trust and related documents.

4. Preservation and Maintenance of Security. Trustor will keep the Security in good repair and in a neat, clean, and orderly condition and will not commit waste or permit impairment or deterioration of the Security. If there arises a condition in contravention of this Section 4, and if the Trustor has not cured such condition within sixty-five (65) days after receiving a Town notice of such a condition, then in addition to any other rights available to the Town, the Town shall have the right (but not the obligation) to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Security to recover its cost of curing. Trustor agrees to provide insurance sufficient to restore and rebuild the Security in the event that it is damaged or destroyed, and at all times until all amounts secured by this Deed of Trust have been paid and all other obligations secured hereunder fulfilled, and this Deed of Trust reconveyed. Trustor agrees to maintain hazard insurance and list the Town as a loss payee on the insurance policy. All such insurance policies and coverages shall be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, shall be delivered to the Beneficiary upon demand thereof at any time prior to the Beneficiary's receipt of the entire Principal and all amounts secured by this Deed of Trust.

5. Protection of the Town'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 the Town's interest in the Security, including, but not limited to, default under the Lender Deed of Trust, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then the Town, at the Town's option, upon notice to Trustor, may make such appearances, disburse such sums and take such action as it determines necessary to protect the Town's interest, including but not limited to, disbursement of reasonable attorney's fees and entry upon the Security to make repairs.

Any amounts disbursed by the Town pursuant to this paragraph, with interest thereon, will become an indebtedness of Trustor secured by this Deed of Trust. Unless Trustor and Town agree to other terms of payment, such amount will be payable upon notice from the Town to Trustor requesting payment thereof, as laid out in the Note and Deed Restriction.

6. Inspection. The Town may make or cause to be made reasonable entries upon and inspections of the Security pursuant to the Deed Restriction; provided that the Town will give Trustor reasonable notice of inspection.

7. Forbearance by the Town Not a Waiver. Any forbearance by the Town in

exercising any right or remedy will not be a waiver of the exercise of such right or remedy or any other such right or remedy available to the Town under the Deed Restriction or this Deed of Trust. The procurement of insurance or the payment of taxes or other liens or charges by the Town will not be a waiver of the Town 's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

8. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or any other document, or afforded by law or equity, and may be exercised concurrently, independently or successively.

9. Hazardous Substances. Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Trustor 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 small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

"Hazardous Substances" shall mean those substances defined as toxic or hazardous substances or hazardous waste under any 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.

"Environmental Law" shall mean all federal and state of California laws that relate to health, safety or environmental protection.

Trustor shall promptly give Town 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 any Environmental Law of which Trustor has actual knowledge. If Trustor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Trustor shall promptly take all necessary remedial actions in accordance with Environmental Law.

10. Successors and Assigns Bound. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the Town and Trustor subject to the provisions of this Deed of Trust.

11. Joint and Several Liability. All covenants and agreements of Trustor shall be joint and several.

12. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Trustor provided for in this Deed of Trust will be given by certified mail, addressed to Trustor at the address shown in the first paragraph of this Deed of Trust or such other address as Trustor may designate by notice to the Town as provided herein, and (b) any

notice to the Town will be given by express delivery, return receipt requested, to the Town of Truckee, 10183 Truckee Airport Road, Truckee, CA 96161, Attention: Housing Specialist, or to such other address as the Town may designate by notice to Trustor as provided above. Notice shall be effective as of the date received by Town as shown on the return receipt.

13. Governing Law. This Deed of Trust shall be governed by the laws of the State of California.

14. Severability. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict will not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Note are declared to be severable.

15. Captions. The captions and headings in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

16. Nondiscrimination. The Trustor covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Trustor or any person claiming under or through the Trustor establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, occupancy, or transfer of the Property. The foregoing covenant shall run with the land.

17. Nonliability for Negligence, Loss or Damage. Trustor acknowledges, understands and agrees that the relationship between Trustor and the Town is solely that of Trustor and lender, and that Town neither undertakes nor assumes any responsibility for or duty to Trustor to select, review, inspect, supervise, pass judgment on, or inform Trustor of the quality adequacy or suitability of the Property or any other matter. Town owes no duty of care to protect Trustor against negligent, faulty, inadequate or defective building or construction or any condition of the Property and Trustor agrees that neither Trustor, or Trustor heirs, successors or assigns shall ever claim, have or assert any right or action against Town for any loss, damage or other matter arising out of or resulting from any condition of the Security and will hold Town harmless from any liability, loss or damage for these things.

18. Indemnity. Trustor agrees to defend, indemnify, and hold Town harmless from all losses, damages, liabilities, claims, actions, judgements, costs, and reasonable attorneys fees that Town may incur as a direct or indirect consequence of:

- (a) the making of the Deed Restriction evidenced by the Note to Trustor;
- (b) Trustor's failure to perform any obligations as and when required by the Town program documents; or

(c) the failure at any time of any of Trustor's certifications, representations, or warranties to be true and correct.

19. Acceleration; Remedies. Upon Trustor's breach of any covenant or agreement of Trustor in the Town program documents, including, but not limited to this Deed of Trust, the Town, prior to acceleration, will mail by express delivery, return receipt requested notice to Trustor specifying; (a) the breach; (b) the action required to cure such breach; and (c) a date, not less than sixty five (65) days from the date the notice is received by Trustor as shown on the return receipt, by which such breach is to be cured. Failure to cure such breach 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 Security. The notice will also inform Trustor of Trustor's right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of default or any other defense of Trustor to acceleration and sale. If the breach is not cured on or before the date specified in the notice, the Town, at the Town's option, may: (a) Declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by California law; (b) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any breach hereunder or invalidate any act done in response to such breach and, notwithstanding the continuance in possession of the Security, the Town shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any uncured breach, including the right to exercise the power of sale; (c) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; (d) Deliver to Trustee a written declaration of default and demand for sale, pursuant to the provisions for notice of sale found at California Civil Code Sections 2924, et seq., as amended from time to time; (e) Or, exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the obligations secured hereby, or provided by law.

The Town shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorney's fees.

20. Trustor's Right to Reinstate. Notwithstanding the Town's acceleration of the sums secured by this Deed of Trust, Trustor will have the right to have any proceedings begun by the Town to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Security pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if: (a) Trustor pays Town all sums which would be then due under this Deed of Trust and no acceleration under the Note has occurred; (b)

Trustor cures all breaches of any other covenants or agreements of Trustor contained in this Deed of Trust; (c) Trustor pays all reasonable expenses incurred by Town and Trustee in enforcing the covenants and agreements of Trustor contained in this Deed of Trust, and in enforcing the Town 's and Trustee's remedies, including, but not limited to, reasonable attorney's fees; and (d) Trustor takes such action as Town may reasonably require to assure that the lien of this Deed of Trust, Town 's interest in the Security and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Trustor, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration had occurred.

21. Due on Transfer of the Property. Upon a Transfer (as defined in the Deed Restriction) of the Property or any interest in it, the Town shall require compliance with all terms of the Deed Restriction.

22. Reconveyance. Upon the performance of all obligations of the Deed Restriction secured by this Deed of Trust, the Town will request Trustee to reconvey the Security and will surrender this Deed of Trust and the Note to Trustee. Trustee will reconvey the Security without warranty and without charge to the person or persons legally entitled thereto. Such person or persons will pay all costs of recordation, if any.

23. Substitute Trustee. The Town, at the Town 's option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. The successor trustee will succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

24. Request for Notice. Trustor requests that copies of the notice of default and notice of sale be sent to Trustor at the address set forth in Section 12 above.

25. Amendments. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

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26. Substitution of Trustee. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall e made by written instrument executed by Beneficiary, continuing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

IN WITNESS WHEREOF, the Trustor has executed this Deed of Trust on or as of the date first written above.

TRUSTOR(s):

By: _____

Printed Name

By: _____

Printed Name

DRAFT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Nevada

On _____ before me,
_____ personally

appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to
me that he/she/they executed the same in his/her/their authorized capacity (ies),
and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

DRAFT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Nevada

On _____ before me,
_____ personally

appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to
me that he/she/they executed the same in his/her/their authorized capacity (ies),
and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

DRAFT

EXHIBIT A

PROPERTY DESCRIPTION

All that certain real property situated in the Town of Truckee, State of California, described as follows:

APN:

DRAFT