

When Recorded Return to:

Arizona Housing Finance Authority
Homeownership Department
1110 West Washington, Suite 310
Phoenix, Arizona, 85007

DEED OF TRUST

| | |
|--|--|
| Effective Date (same as Grant Date): _____ | County and State Where Subject Real Property is located: _____ |
| Trustor (Name, Mailing Address and Zip Code of Grantee): Grantee's Name _____ Address _____ City State Zip _____ | Beneficiary (Name, Mailing Address and Zip Code): Arizona Housing Finance Authority Homeownership Department 1110 West Washington, Suite 310 Phoenix, Arizona, 85007 |
| Trustee (Name, Mailing Address and Zip Code): Title Insurance, Inc. _____ Address _____ City State Zip _____ | Obligation Secured (Indicate Nature, Date and All Parties): Amount: \$ _____ |

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|---|---|-------------|-------------|-------------|
| Subject Real Property (Address or Location): Address _____ City State Zip _____ | Legal Description Reviewed by Persons Whose Initials Appear to the Right: | 1. _____ | 2. _____ | 3. _____ |
|---|---|-------------|-------------|-------------|

Subject Real Property (Legal Description copied from the preliminary Title Report):

1. Conveyance. Trustor irrevocably grants and conveys to Trustee in trust, with power of sale, the Subject Real Property, subject to covenants, conditions, restrictions, rights of way and easements of record, to be held as security for the payment by Trustor of the Obligation Secured as described in that certain Grant and that certain Note of even date herewith and any other documents memorializing the Obligation Secured and for the performance of other obligations of Trustor as set forth in this Deed of Trust.

2. Appurtenances. Trustor grants, together with the Subject Real Property, all buildings and improvements now or hereafter erected thereon, and all fixtures attached to or used in connection with the Subject Real Property (including, without limiting the generality of the foregoing, all ventilating, heating, air conditioning, refrigeration, plumbing and lighting fixtures), together with all leases, rents, issues, profits or income therefrom (hereinafter "Property Income"), subject however, to the right, power and authority hereinafter given to Beneficiary to collect and apply such property income.

3. Taxes and Assessments and Trust Expenses. Trustor shall pay before delinquent taxes and assessments affecting the Subject Real Property or any part thereof, which appear to be prior or superior hereto, all cost, fees and expenses of this trust and all lawful charges, costs and expenses of any reinstatement of the Deed of Trust following default.

4. Fire Insurance. Trustor shall, at Trustor's expense, maintain in force fire and extended coverage insurance in any amount of not less than full replacement value of any buildings which may exist on the Subject Real Property with loss payable to Beneficiary. Trustor shall provide fire insurance protection on his furniture, fixtures and other personal property on the Subject Real Property in an amount equal to the full insurable value thereof, and promises that any insurance coverage in this regard will contain a waiver of the insurer's right of the subrogation against Beneficiary.

5. Liability Insurance. Trustor shall, at Trustor's expense, maintain in force policies of liability insurance, with Beneficiary as an additional insured thereunder, insuring Trustor against any claims resulting from the injury to or the death of any person or the damage to or the destruction of any property belonging to any person by reason of Beneficiary's interest hereunder or the use and occupancy of the Subject Real Property by Trustor.

6. Processing of Insurance Policies. Trustor shall promptly deliver to Beneficiary the originals or true and exact copies of all insurance policies required by this Deed of Trust. Trustor shall not do or omit to do any act that will in any way impair or invalidate any insurance policy required by this Deed of Trust. All insurance policies shall contain a written obligation of the insurer to notify Beneficiary in writing at least 10 days prior to any cancellation thereof.

7. Indemnification of Trustee and Beneficiary. Trustor shall hold Trustee and Beneficiary harmless from and indemnify them for, from and against any and all claims raised by any third party against Trustee or Beneficiary resulting from their interests hereunder or the acts of Trustor. Such indemnification shall include reasonable attorney's fees and costs, including cost of evidence of title.

8. Right of Beneficiary or Trustee to Pay Obligations of Trustor. If Trustor fails or refuses to pay any sums due to be paid by it under the provisions of this Deed of Trust, or fails or refuses to take any action as herein provided, then Beneficiary or Trustee shall have the right to pay any such sum due to be paid by Trustor and to perform any act necessary. The amount of such sums paid by Beneficiary or Trustee for the account of Trustor and the cost of any such action, together with interest thereon at the maximum legal contractual rate per annum, from the date of payment until the satisfaction, shall be added to the Obligation Secured. The payment of Beneficiary or Trustee of any such sums or the performance of any such action shall be prima facie evidence of the necessity therefor.

9. Condemnation. Any award of damages in connection with any condemnation or injury to any of the Subject Real Property by reason of public use or for damages for private trespass or injury thereto, are assigned in full and shall be paid to Beneficiary, who shall apply them to payment of the principal of the Obligation Secured, the interest thereon, and any other charges or amounts secured hereby in such manner as Beneficiary may elect. Any remaining balance shall be paid to Trustor. Beneficiary may, at Beneficiary's option, appeal from any such award in the name of Trustor. Unless Trustor and Beneficiary otherwise agree in writing, any application of such proceeds to principal shall not extend or postpone the due dates of any installment payments of the Obligation Secured or change the amount of such payments.

10. Care of Property. Trustor shall take reasonable care of the Subject Real Property and the buildings thereon and shall maintain them in good repair and condition as at the original date of this Deed of Trust, ordinary depreciation excepted. Trustor shall commit or permit no waste and do no act which will unduly impair or depreciate the value of the Subject Real Property as required, then Beneficiary or Trustee, at their option, may make necessary repairs and add the cost thereof to the Obligation Secured. Trustor shall purchase and use on the Subject Real Property the amount of water to which it is or shall be entitled and shall not abandon any water rights, power rights or any rights of whatever nature which are appurtenant to the Subject of Real Property.

11. Right to Inspect Subject Real Property. At all convenient and reasonable times, upon prior notice to Trustor, Beneficiary or Trustee shall have the right and license to go on and into the Subject Real Property to inspect it in order to determine whether the provisions of the Deed of Trust are being kept and performed.

12. Acceleration. If an event of default occurs as set forth in Section 13, Beneficiary may, subject to Section 37 of this Deed of Trust, declare all sums secured hereby immediately due and payable, upon delivery to Trustee of written notice setting forth the nature of such event of default and of Beneficiary's election to cause the Subject Real Property to be sold under this Deed of Trust. Beneficiary shall also deposit with Trustee all documents evidencing the Obligation Secured and any expenditures secured hereby.

13. Event of Default. Each of the following shall be considered an event of default under this Deed of Trust:

- a. Failure to Make Payment. The failure of Trustor to make any payment due hereunder or under the Obligation Secured on or before the due date thereof;
- b. Failure of Trustor to Perform Duty. The failure of Trustor to perform any duty required by this Deed of Trust or the Obligation Secured.
- c. Removal of Trustor. The removal or attempted removal by Trustor of any property included in the Subject Real Property without the consent of Beneficiary;
- d. Abandonment. The abandonment of the Subject Real Property by Trustor;
- e. Inadequacy or Impairment of Deed of Trust. A determination by Beneficiary that the security of the Deed of Trust is inadequate or in danger of being impaired or threatened from any cause whatsoever.
- f. Trustor's Fraud or Misrepresentation. Any willful misstatement of, or failure to disclose, a material fact by a Trustor relating to his or her eligibility for the Grant with respect to the Subject Real Property under the Beneficiary's homeownership program. Recovery against the Grantee responsible for the fraud or misrepresentation is not limited to the proceeds of sale of the Subject Real Property but may include personal judgment and execution thereon to the full extent authorized by law.

14. Trustee's Sale. Upon receipt of Beneficiary's notice of election to cause the Subject Real Property to be sold, Trustee shall, in accordance with all provisions of law, give notice of Trustee's sale and, after the lapse of the required amount of time, sell the Subject Real Property at public auction, at the time and place specified in the notice of Trustee's sale, to the highest bidder for cash in lawful money of the United States, payable at the time of sale. Any persons, including Trustor, Trustee or Beneficiary may purchase at Trustee's sale. Trustee may postpone or continue the sale by giving notice of postponement or continuance by public declaration at the time and place last appointed

for sale. Upon sale, Trustee shall deliver to the purchaser a Trustee's deed conveying the Subject Real Property, but without any covenant or warranty, expressed or implied.

15. Proceeds of Trustee's Sale. After deducting all costs, fees and expenses of Trustee and of this trust, including the cost of evidence of title in connection with the sale and reasonable attorney's fees, trustee shall apply the proceeds of sale to payment of all sums then secured hereby and all other sums due under the terms hereof, with accrued interest, and the remainder, if any, to the persons legally entitled thereto or as provided by ARS §33-812.

16. Defaults on Prior Encumbrances. If there are mortgages upon the Subject Real Property or other encumbrances which are prior in time or prior in right, then Trustor promises to comply with the terms of these prior mortgages or encumbrances. If Trustor fails to comply with such terms and defaults on these mortgages or obligations, such default shall also be considered a default of this Deed of Trust, and Trustee or Beneficiary herein may advance the monies necessary to remedy such defaults, and, if it does, such monies shall be added to the Obligation Secured and shall bear the maximum contractual legal rate of interest from the date monies are tendered. Beneficiary may also proceed on this default by exercising the same remedies it has on this Deed of Trust.

17. Deficiency Judgment. Subject to applicable law, including without limitation ARS §33-814, Beneficiary shall be entitled to a deficiency judgment against Trustor if Trustee's sale yields an amount insufficient to fully satisfy Trustor's payment obligations hereunder.

18. Foreclosure and Other Remedies. In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may be foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. Beneficiary shall also have all other rights and remedies available hereunder and at law or in equity. All rights and remedies shall be cumulative.

19. Reinstatement After Event of Default. Notwithstanding Beneficiary's acceleration of sums secured by this Deed of Trust, Trustor shall have the right to have any proceedings begun by Beneficiary to enforce this Deed of Trust discontinued and to have this Deed of Trust reinstated at any time before the day of Trustee's sale or before the filing of a foreclosure action. In order to have the Deed of Trust reinstated after default, Trustor must:

- 1) Pay to Beneficiary the entire amount due under this Deed of Trust and the Obligation Secured;
- 2) Cure all defaults or any covenants or agreements of Trustor as contained in this Deed of Trust;
- 3) Pay costs and expenses incurred by Beneficiary and Trustee in enforcing the terms of this Deed of Trust and pursuing remedies hereunder;

- 4) Pay reasonable attorney's fees actually incurred by Beneficiary and Trustee;
- 5) Pay the recording fee for any cancellation of notice of sale; and
- 6) Pay Trustee's fees, in an amount not to exceed \$250.

Upon reinstatement, this Deed of Trust and the Obligation Secured shall remain in full force and effect as if no acceleration had occurred.

20. Assignment of Property Income. As additional security, Trustor hereby gives Beneficiary the right, power and authority during the continuance of this Trust, to collect the Subject Real Property income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such property income as it becomes due and payable.

Upon any such default, Beneficiary may at any time, without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Subject Real Property or any part thereof; in its own name sue for or otherwise collect such property income, including that 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. The entering upon and taking possession of the Subject Real Property, the collection of such property income and the application thereof, shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

21. Acts of Trustee Affecting Subject Real Property. At any time, without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Obligation Secured for endorsement, Trustee may, without liability, release and reconvey all or any part of the Subject of Real Property; consent to the making and/or recording of any map or plat of all or any part of the Subject Real Property; join in granting any easement on the Subject Real Property; or join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance or charge of this Deed of Trust. Any such action by Trustee may be taken without affecting the personal liability of any person for payment of the Obligation Secured, without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by Trustee's action be credited to the indebtedness.

22. Satisfaction of the Obligation. If Trustee receives full payment of the Obligation Secured in the amount secured, then, at the request of Trustor, Trustee shall acknowledge satisfaction of the Deed of Trust by recording and delivering to Trustor a satisfaction or release of realty deed of trust or similar instrument.

23. Notices. Copies of all notices and communication concerning this Deed of Trust shall be mailed to the parties at the addresses specified in this Deed of Trust, and any change of address shall be communicated to the other party in writing. Any documents which may adversely affect the rights of any party to this Deed of Trust shall be dispatched by Certified Mail, Return Receipt Requested.

24. Headings. The marginal or topical headings of the provisions herein are for convenience only and do not define, limit or construe the contents of these provisions.

25. Interpretation. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural and vice versa.

26. Applicable Law. This Deed of Trust shall be subject to and governed by the laws of the State of Arizona, in particular the provisions of ARS Title 33, Chapter 6.1, and the laws of the local jurisdiction in which the Subject Real Property is located, regardless of the fact that one or more parties is now or may become a resident of a different state.

27. Waiver. Any waiver by either party of a breach of any provision of this Deed of Trust shall not operate or be constructed as a waiver of any subsequent breach hereof.

28. Succession of Benefits. The provisions of this Deed of Trust shall inure to the benefit of and be binding upon the parties hereto, their heirs, personal representatives, conservators and permitted assigns.

29. Successor Trustee. Beneficiary may appoint a Successor Trustee in the manner prescribed by law. A Successor Trustee herein shall, without conveyance from the predecessor Trustee, succeed to all predecessors' title, estate, rights, powers and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor.

30. Entire Agreement. The terms of this Deed of Trust constitutes the entire agreement among the parties, and the parties represent that there are no collateral or side agreements not otherwise provided for within the terms of this Deed of Trust.

31. Time of Essence. Time is of the essence in this Deed of Trust and every term, condition, covenant and provision hereof.

32. Modification. No other modification of this Deed of Trust shall be binding unless evidenced by an agreement in writing and signed by all parties.

33. Partial Invalidity. If any provision of this Deed of Trust is held to be invalid or unenforceable, all the remaining provisions shall nevertheless continue in full force and effect.

34. Payment on Sale. In the event all or any part of the Subject Real Property or any interest in it is sold, conveyed, or encumbered, either voluntarily or by operation of law, Beneficiary shall have the right in its sole and absolute discretion to declare all

obligations secured by this Deed of Trust immediately due and payable upon notice to the Trustee by Beneficiary without regard to whether the Beneficiary approved or otherwise consented to the sale, conveyance, or encumbrance of the Subject Real Property.

35. Indemnification of Beneficiary. The Trustor shall indemnify Beneficiary and Trustee for, from and against any and all liability for the violation by the Trustor of any Federal or state statute, law or regulation dealing with the environment. The Trustor warrants that he will comply with those laws or regulations. Trustor warrants the Subject Real Property does not contain any hazardous substance and that he or she shall indemnify the Beneficiary and the Trustee against any and all liability for hazardous waste disposal or cleanup. This warranty and indemnification shall survive any foreclosure of this Deed of Trust or the acceptance of a deed in lieu of foreclosure. Trustor shall promptly notify Beneficiary and Trustee of any suspected or alleged environmental violations during the term of this loan.

36. Prohibition on Assumptions. Except where otherwise required or permitted by Beneficiary in connection with a transfer on death, divorce, legal separation, or legal incapacity of a Trustor, this Deed of Trust may not be assumed.

37. Subordination.

- a. Notwithstanding any provision of the Deed of Trust to the contrary, Beneficiary and Trustor acknowledge and agree that this Deed of Trust is subject and subordinate in all respects to the liens, terms, covenants and conditions of the first mortgage loan/deed of trust relating to the Subject Real Property (“First Mortgage/Deed of Trust”) and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage/Deed of Trust, including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Mortgage/Deed of Trust or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Subject Real Property. Such senior liens, terms, covenants and conditions are as follows:

[list all senior liens]

- b. The terms and provisions of the First Mortgage/Deed of Trust are paramount and controlling, and they supersede any terms and provisions of this Deed of Trust in conflict therewith.
- c. In the event of a foreclosure or deed in lieu of foreclosure of the First Mortgage/Deed of Trust, any provisions herein or any provisions in any collateral agreement restricting the use of the Subject Real Property or otherwise restricting the Grantee’s ability to sell the Subject Real Property shall have no further force or effect on subsequent owners or purchasers of the Subject Real Property. Any person, including his successors or assigns (other than Trustor or a person or entity related to Trustor), receiving title to the Subject Real Property through foreclosure or deed in lieu of foreclosure of the First Mortgage/Deed of Trust

shall receive title to the Subject Real Property free and clear from such restrictions.

- d. Further, if the senior lien holder acquires title to the Subject Real Property pursuant to a deed in lieu of foreclosure, the lien of this Deed of Trust shall automatically terminate upon the senior lien holder's acquisition of title, provided that Beneficiary has been given written notice of a default under the First Mortgage/Deed of Trust.
- e. The lien created by this Deed of Trust will be released upon foreclosure, transfer of deed in lieu of foreclosure, assignment to HUD or market sale.

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| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| Signatures of Trustor(s) | Signatures of Trustee(s) |

| | | |
|-----------------------------------|--|----------------------------|
| STATE OF ARIZONA COUNTY OF | Acknowledgment: On this date, before me a Notary Public, personally appeared _____ | Signature of Notary Public |
| DATE OF THIS ACKNOWLEDGMENT | Known to me as satisfactorily proven to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same. If this person's name is subscribed in a representative capacity, it is for the principal named and in the capacity indicated. | Notary Expiration Date |
| STATE OF ARIZONA COUNTY OF | Acknowledgment: On this date, before me a Notary Public, personally appeared _____ | Signature of Notary Public |
| Date of this Acknowledgment | Known to me as satisfactorily proven to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same. If this person's name is subscribed in a representative capacity, it is for the principal named and in the capacity indicated. | Notary Expiration Date |