

Declaration and Agreement

Fee: 16.00 Check
CALLEEN B. PESHELL, Recorder

Filed By RGL

For DEUTSCHE FINANCIAL SERVICES CORPORATION
SIOLE COUNTY CUSORATOR

This Declaration and Agreement ("Agreement") is entered into by and between Deutsche Financial Services Corporation ("DFS") David R. and Angela [Name obscured]

Witnesseth:

WHEREAS, DFS has extended and may from time to time hereafter, extend credit or other financial accommodations to Nathan Jones dba Mountain West Manufactured Homes ("Dealer") in connection with (i) Dealer's acquisition of inventory, including without limitation mobile, modular and/or manufactured homes (the "Inventory") and (ii) Dealer's acquisition and installation of certain "amenities", including, but not limited to accessions, attachments, improvements, driveways, sidewalks, landscaping, screen rooms, air conditioning (HVAC), furniture, site improvement work and installation of the Inventory on the Premises as a fixture (together referred to as the "Amenities");

WHEREAS, some or all of the Inventory and Amenities may from time to time be located on the premises commonly known as 421 North 2nd West, Tooele, UT and is more fully described in Exhibit A attached hereto (the "Premises")

WHEREAS, Subordinator either (i) owns the Premises, (ii) is the beneficiary of a deed of trust, mortgage or other real estate security instrument encumbering or affecting the Premises (a "Mortgage"), (iii) is the mortgagee of a construction Mortgage or (iv) is the mortgagee of a Mortgage given to refinance a construction Mortgage.

NOW, THEREFORE, for and in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DFS and Subordinator agree as follows:

1. **Subordination of Inventory.** Subordinator hereby unconditionally subordinates to DFS any and all right, title and security interest which Subordinator may presently have or which it may hereafter acquire in and to the Inventory, including without limitation all items of the Inventory that have or may become fixtures to the Premises, whether now owned or hereafter acquired by Dealer and wherever located, and all discounts, rebates, credits, incentive payments, returns, repossessions, exchanges, substitutions, replacements, attachments, parts, accessories and accessions thereto, and all proceeds thereof.

2. **Right of Removal/Amenities.** Subordinator grants to DFS the right at any time to enter onto and remove from the Premises all items of the Inventory in which DFS has or hereafter acquires a security interest, including without limitation any Inventory that has or hereafter become fixtures to the Premises. Further, Subordinator grants to DFS the right to remove from the Premises any Amenities for which DFS has provided financing and which are reasonably subject to removal from the Premises. In the event that DFS elects not to remove any or all of the Amenities from the Premises, Subordinator shall not hold DFS liable for any damage done to Amenities for which DFS provided financing which occurs in connection with the removal of the Inventory. With respect to both the Inventory and the Amenities, Subordinator shall not hold DFS liable for (i) the cost of repair of any physical injury to the Premises, Inventory or the Amenities, (ii) any diminution in value of the Premises caused by the absence of the Inventory or Amenities removed or by any necessity of replacing the Inventory or Amenities, or (iii) any requirement to provide adequate security prior to the removal of the Inventory or Amenities from the Premises.

3. **Miscellaneous.** This Agreement shall be binding on, and shall inure to the benefit of, the successors and assigns of DFS and Subordinator. Subordinator hereby represents and warrants to DFS that Subordinator has not heretofore assigned, transferred, subordinated or terminated any of Subordinator's right, title or security interest in or to any of Dealer's assets subordinated to DFS pursuant to the terms of this Agreement. This Agreement is not intended, nor shall it be deemed, to directly or

indirectly benefit any person or entity, including the Dealer, who is not a party hereto. Further, this Agreement shall bind any and all assignees of Subordinator's interest in the Premises including any purchaser at a foreclosure or trustee's sale.

4. **BINDING ARBITRATION.** Any controversy or claim arising out of or relating to this Agreement, the relationship resulting in or from this Agreement, the breach of any duties hereunder or any other relationship, transaction or dealing between the parties (collectively "Disputes") will be settled by binding arbitration in accordance with the Commercial Arbitration Rules of The American Arbitration Association, 140 West 51st Street, New York, New York 10020-1203. Except as otherwise stated herein, all notices, arbitration claims, responses, requests and documents will be sufficiently given or served if mailed or delivered: (i) to Deutsche Financial Services Corporation at 655 Maryville Centre Drive, St. Louis, Missouri 63141-5832, Attention: General Counsel; and (ii) to any other party at the address specified herein; or such other address as the parties may specify from time to time in writing. The parties agree that all arbitrators selected will be attorneys with at least five (5) years secured transactions experience. Any award rendered by the arbitrator(s) may be entered as a judgment or order and confirmed or enforced by either party in any state or federal court having competent jurisdiction thereof. If either party brings or appeals any judicial action to vacate or modify any award rendered pursuant to arbitration or opposes the confirmation of such award and the party bringing or appealing such action or opposing confirmation of such award does not prevail, such party will pay all of the costs and expenses (including, without limitation, court costs, arbitrators fees and expenses and attorneys' fees) incurred by the other party in defending such action. Additionally, if either party brings any action for judicial relief in the first instance without pursuing arbitration prior thereto, the party bringing such action for judicial relief will be liable for and will immediately pay to the other party all of the other party's costs and expenses (including, without limitation, court costs and attorneys' fees) to stay or dismiss such judicial action and/or remove it to arbitration. The failure of either party to exercise any rights granted hereunder shall not operate as a waiver of any of those rights. **THE LAWS OF THE STATE OF Washington WILL GOVERN THIS AGREEMENT AND ALL TRANSACTIONS HEREUNDER AS TO INTERPRETATION, ENFORCEMENT, VALIDITY, CONSTRUCTION, EFFECT AND IN ALL OTHER RESPECTS; PROVIDED, HOWEVER, THAT THE FEDERAL ARBITRATION ACT ("FAA") , TO THE EXTENT INCONSISTENT, WILL SUPERSEDE THE LAWS OF SUCH STATE AND GOVERN.** This Agreement concerns transactions involving commerce among the several states. The arbitrators will not be empowered to award punitive damages. The agreement to arbitrate will survive termination of this Agreement. **IF THIS AGREEMENT IS FOUND TO BE NOT SUBJECT TO ARBITRATION, EACH PARTY IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS LOCATED WITHIN SUCH STATE AND AGREE THAT ALL LEGAL PROCEEDINGS WILL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE WITHOUT A JURY. EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY SUCH PROCEEDING.**

THIS CONTRACT CONTAINS BINDING ARBITRATION, JURY WAIVER AND PUNITIVE DAMAGE WAIVER PROVISIONS.

Date: _____

Witness: _____

[Handwritten Signature]

Agnes M Davis

By: David R. Davis
Title: Owner
Address: 214 Birch
Tapele, UT 84074

By: Agnes M. Davis
Title: Owner
Address: 214 Birch St
Tapele, UT 84074

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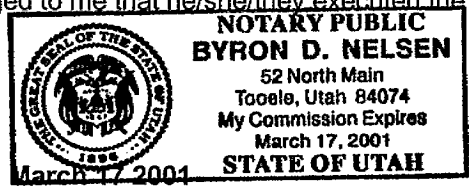
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STATE OF STATE OF Utah)

SS.

COUNTY OF Tooele)

On the 27 day of April, appeared before me David R. Davis and Agnes M. Davis, the signer(s) of the within instrument who duly acknowledged to me that he/she/they executed the same.



Byron D. Nelsen
Byron D. Nelsen Notary Public

Commission Expires: March 17, 2001

Residing in: Tooele, Utah

B & D TITLE COMPANY 52 N Main, Tooele, UT 84074
PH: (435)882-3511 FAX: (435)882-7764

ACKNOWLEDGED AND AGREED:

DEUTSCHE FINANCIAL SERVICES CORPORATION

By: *Tom Wass*
Title: CREDIT MANAGER

STATE OF Arizona)
'COUNTY OF Maricopa) ss.

On the 9 day of June, 1999, before me personally came Tim Wass, personally known to me to be the Credit Manager of DEUTSCHE FINANCIAL SERVICES CORPORATION and who executed the foregoing instrument and acknowledged to me that they did so as their free and voluntary act on behalf of the corporation thereunto duly authorized.



Tiffney Kristine Ryno
Notary Public

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EXHIBIT A

Secured Party has a security interest in manufactured housing which have been or will be installed on real estate owned by: David R. and Agnes M. Davis, which is described as follows:

Beginning at a point which is 85 feet North from the Southeast corner of Lot 1, Block 50, Plat "A", Tooele City Survey; and running thence West 330 feet, more or less, to the East line of an alley; thence North 180 feet along the East line of said Alley; thence East 330 feet to a point North of the point of beginning; thence South 180 feet to the point of beginning.

Situate in the county of Tooele, State of Utah

Parcel/Tax#: 02-062-0-0018

"All inventory, equipment, fixtures, accounts, contract rights, chattel paper, security agreements, instruments, deposit accounts, reserves, documents, and general intangibles; and all judgements, claims, insurance policies and payments owed or made to Debtor thereon; all whether now owned or hereafter acquired, all attachments, accessories, accessions, returns, repossessions, exchanges, substitutions and replacements thereto, and all proceeds thereof."

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